

Exhibit A

In The Matter Of:

*UNITED STATES OF AMERICA v.
MARIO S. LEVIS A/K/A SAMMY LEVIS*

*VOLUME 6
April 5, 2010*

*TRIAL
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(11) (In open court)
(12) **THE COURT:** You're excused. Thank you very much.
(13) (Witness excused)
(14) **THE COURT:** We'll take an early lunch because of some
(15) scheduling issues that came up. So let's take our lunch now
(16) and be back at 1:30, if you would, 1:30. Thank you very much.
(17) (Jury excused)
(18) **THE COURT:** Can I hold the lawyers a second.
(19) I have a letter from Mr. Black, dated April 2, and it
(20) says that there are multiple drafts of an internal audit of
(21) Doral and lists the government exhibit numbers, and the defense
(22) objects to having them all come in. I assume that can be
(23) resolved?
(24) **MR. BRAUN:** We think it can be, your Honor. We did
(25) not intend to introduce them all. We haven't had a chance to
discuss this with the defense, but I think there is a good
chance we can resolve it.
(18) **THE COURT:** Work on that and if we need to come back
(19) to it, we will.
(20) **MR. STELLMACH:** There is one other issue.
(21) With respect to a witness the government anticipates
(22) calling tomorrow named Freddy Maldonado, we submitted before
(23) trial started an in limine motion to preclude cross-examination
(24) on certain issues, and I don't know whether the defense has
(25) decided whether they actually do want to cross-examine

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(1) Mr. Maldonado on those issues, but if they do, we would seek a
(2) ruling today so we know before we call Mr. Maldonado whether
(3) that is a subject of cross-examination.
(4) **THE COURT:** Look, we'll cover that, but let's not try
(5) to do it at the lunch hour. You all need your lunch hour.
(6) **MR. BRAUN:** Thank you, Judge.
(7) **THE COURT:** We'll cover it to the extent there are
(8) issues.
(9) (Luncheon recess)
(10) (Continued on next page)
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(11) AFTERNOON SESSION
(12) 1:30 pm
(13) (Trial resumes)
(14) (In open court; jury present)
(15) **THE COURT:** Sit down, please. Ready with your next
(16) witness?
(17) **MR. BRAUN:** Yes, your Honor, we are. The government
(18) calls Randy Saluck.
(19) **THE COURT:** Okay.
(20) RANDY SALUCK,
(21) called as a witness by the Government,
(22) having been duly sworn, testified as follows:
(23) **DIRECT EXAMINATION**
(24) **BY MR. BRAUN:**
(25) **Q.** Good afternoon, Mr. Saluck.
A. Hi.
Q. Where do you live?
A. Westport, Connecticut.
Q. What do you do for a living?
A. I manage an investment firm in the city.
Q. How long have you been doing that?
A. I've been in the business for about 14 years and I've been
in this current position for about six.
Q. Can you tell us about your educational background, where
you went to college and what you did after college?

(1) **A.** Sure, I went to University of Pennsylvania, I went straight
(2) through to law school where I took a major in corporate law.
(3) I practiced law for six years, securities law and
(4) corporate law, and I went back to business school at Wharton,
(5) which is part of the University of Pennsylvania in
(6) Philadelphia. I was an investment banker at Salomon Brothers
(7) for about a year, concentrating on mergers and acquisitions.
(8) Then I entered the investment management business in about
(9) 1998.
(10) **Q.** Mr. Saluck, when did you graduate from business school?
(11) **A.** 1997.
(12) **Q.** When did you start working in the investment field?
(13) **A.** 1998.
(14) **Q.** You were with Salomon Brothers, you said, at that time?
(15) **A.** For a year after I graduated from business school as an
(16) investment banker.
(17) **Q.** What did you do after Salomon Brothers?
(18) **A.** I worked for an investment firm called Tindal Management.
(19) Then I went to a company called High Field Management
(20) because a couple of the partners left Tindal, and I rejoined
(21) Tindal a year later. I spent a couple of more years at Tindal
(22) Management, and I joined Meisenbach Capital for two and a half
(23) years. Then I started my own fund in 2005.
(24) **Q.** You were with Tindal and you mentioned High Field Capital
(25) Management as well?

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[1] A. Right.
 [2] Q. As well as Meisenbach Capital?
 [3] A. Tindal, High Field, Tindal Meisenbach and then I started my
 [4] own fund.
 [5] Q. Got it. Were those all investment funds basically in the
 [6] same kind of professional activity?
 [7] A. Yes.
 [8] Q. Can you give us the approximate dates of your employment at
 [9] Meisenbach Capital Management?
 [10] THE COURT: How do you spell Meisenbach?
 [11] THE WITNESS: MEISENBACH Capital. I joined
 [12] Mark, Meisenbach Capital in November of 2002 and I left in
 [13] April of 2005.
 [14] BY MR. BRAUN:
 [15] Q. What kind of business was Meisenbach Capital Management?
 [16] A. Meisenbach was an investment firm which had money from
 [17] pension funds, institutions, wealthy families, wealthy
 [18] individuals and invested it in the stock market basically.
 [19] Q. What was your job there?
 [20] A. I was a portfolio manager. I was hired to manage a good
 [21] chunk of the capital or the money at Meisenbach Capital. So I
 [22] made investment decisions and had a portfolio that was a pretty
 [23] large portion of Meisenbach Capital's total funds.
 [24] Q. In doing that work, did you have any particular type of
 [25] approach or strategy to investing?

[1] and our trader would buy the number of shares of the stock that
 [2] we wanted. I had a lot of autonomy at Meisenbach Capital.
 [3] THE COURT: You had what?
 [4] THE WITNESS: Autonomy. In other words, I had sole
 [5] investment capability, but I had to run generally what I was
 [6] doing by the owner of the firm, Mike Meisenbach.
 [7] BY MR. BRAUN:
 [8] Q. When you were at Meisenbach doing the sort of work you
 [9] described, did Doral Financial Corporation come to your
 [10] attention at some point?
 [11] A. Yes.
 [12] Q. Do you recall approximately when that was, Mr. Saluck?
 [13] A. At some point in early 2003.
 [14] Q. Do you recall how you learned about Doral, how it came to
 [15] your attention?
 [16] A. Somebody mentioned it, that Doral was a very good bank in
 [17] Puerto Rico, Puerto Rico was growing and Doral had a good
 [18] reputation and they were growing rapidly and they had a lot of
 [19] growth in front of them, the prospects for growth were very
 [20] strong.
 [21] Q. Once you became interested in the company, did you do
 [22] anything further to learn about it?
 [23] A. Sure. I read all the reports, I learned about the company
 [24] and generally followed it for a period of time, which means
 [25] listened to earnings calls at the end of every quarter,

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[1] A. I am what is considered a value investor. I look for solid
 [2] companies at really cheap prices that I can hold for a period
 [3] of time, and I tend to do a lot of fundamental research.
 [4] I talk to management teams, run financial models, read
 [5] everything that I can and try to learn as much as I can about a
 [6] company before I make the investment.
 [7] Q. In doing that type of work, what are some of the sources of
 [8] information that you relied upon?
 [9] A. Public filings. Every public company has to make public
 [10] filings that disclose their operating results for the period,
 [11] whether it is a year period or quarterly period. So I look at
 [12] all of that.
 [13] I would speak to the company, speak to competitors,
 [14] look at the public filings of their competitors, 10K, 10Q, try
 [15] to find people in the industry to talk to about the companies.
 [16] I would speak to research analysts, Wall Street
 [17] analysts and read their reports and attend presentations that
 [18] companies make at different conferences and other, whatever
 [19] research I can get my hands on.
 [20] Q. Can you describe generally how investment decisions were
 [21] made at Meisenbach, how you made your decisions as a portfolio
 [22] manager?
 [23] A. Sure. After performing the amount of work or due diligence
 [24] as I saw appropriate, I would decide to buy a stock and I would
 [25] basically send an instant message or call or e-mail our trader,

[1] participated in analyst calls, go to conferences and speak with
 [2] management and also attend any field trips to visit the company
 [3] and other companies in Puerto Rico.
 [4] So for a while I studied the company, performed my due
 [5] diligence in order to get comfortable it was a solid
 [6] investment.
 [7] Q. Was there anybody in Doral's management who you spoke to
 [8] before making any investment decision relating to Doral?
 [9] A. Sure.
 [10] Q. I am talking about this period of time you are describing
 [11] now when you were learning about the company.
 [12] A. Sure. I met with and spoke to Sammy Levis, Ricardo
 [13] Melendez and Salomon Levis and maybe a couple of other members,
 [14] I don't remember the names.
 [15] Q. Do you recall the positions they held at Doral?
 [16] A. Sammy was the executive vice president, Ricardo I think was
 [17] an assistant to the CFO, and Salomon was the chief executive
 [18] officer or chairman or something. The positions changed over
 [19] time.
 [20] Q. Before making any investment decision, did you visit the
 [21] company in Puerto Rico?
 [22] A. I did.
 [23] Q. Did you have a main contact at Doral?
 [24] A. My main contact was Sammy Levis.
 [25] Q. At some point did you make a decision to invest in the

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(1) company?
(2) A. I did.
(3) Q. Do you recall approximately when that was?
(4) A. Sometime in the summer of 2003.
(5) Q. Why did you decide to invest in Doral at that time?
(6) A. Because I had gotten comfortable with the company's growth
(7) prospects and management team and the stock was at what I
(8) thought was an attractive entry point and was trading at a
(9) discount to what I thought it was worth.
(10) Q. Do you recall how much of Meisenbach's portfolio, how much
(11) of the funds you had to invest were put into Doral stock at
(12) that time?
(13) A. Sure. The first time I invested in Doral, probably a
(14) couple million dollars. I would say it was 1 percent of the
(15) fund, Meisenbach fund, and it was probably 3 percent or 2 and a
(16) half percent of my portfolio, my sub-portfolio at Meisenbach.
(17) Q. Mr. Saluck, from your response, was there more than one
(18) time you invested in Doral?
(19) A. Yes.
(20) Q. Okay. For now I want to talk about the first investment
(21) you made in the company.
(22) A. Sure.
(23) Q. Can you turn your attention to a document that has been
(24) marked as Government Exhibit 1101. It should be in the binder
(25) of materials you have in front of you.

(1) A. I am sorry. Could you repeat the question.
(2) Q. Yes. You wrote this e-mail that you just identified a
(3) moment ago as well as the attached write-up during the period
(4) of time in which you first invested in Doral. Is that correct?
(5) A. Yes.
(6) Q. Did there come a time when you sold that stock that you had
(7) purchased while at Meisenbach?
(8) A. Yes.
(9) Q. Do you recall approximately when you sold the Doral stock
(10) after this first investment?
(11) A. Sometime in the first quarter of 2004, I am not sure
(12) exactly when.
(13) Q. Why did you decide to sell the investment in Doral?
(14) A. Because the stock rose nicely and hit our target price, and
(15) generally when stocks hit our target price, we sell them.
(16) Q. What do you mean by, "target price"?
(17) A. We have a financial model that I developed at our fund
(18) where we look at the company's financials and project growth
(19) and what their financials might look like in the future, and
(20) based on that we derive what it should be worth 6, 8, 12 months
(21) out, and we generally look to hold stocks for at least a year.
(22) Doral went up a little bit faster than we anticipated. It was
(23) a good thing.
(24) Q. So you made money from the investment?
(25) A. Yes.

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(1) A. I see.
(2) Q. Do you recognize the document that has been marked as 1101?
(3) A. I do.
(4) Q. What is it?
(5) A. It is an e-mail that I wrote to Sammy Levis, and I also
(6) CC'd a couple of friends of mine that manage small funds, where
(7) I wrote up in a newsletter that is read by a bunch of different
(8) funds Doral's an interesting idea for somebody to buy.
(9) It is basically a newsletter where I could share ideas
(10) with other investment professionals, and I sent it to Sammy
(11) also.
(12) Q. What is the date of the e-mail from you to Sammy Levis?
(13) A. January 15th, 2004.
(14) Q. Does it attach the write-up on Doral that you just
(15) described a moment ago?
(16) A. It does.
(17) MR. BRAUN: The government offers 1101 into evidence.
(18) THE COURT: Received.
(19) (Government Exhibit 1101 received in evidence)
(20) BY MR. BRAUN:
(21) Q. Did you write up, summarize some of the reasons for
(22) thinking Doral was a good investment opportunity, Mr. Saluck?
(23) A. I did.
(24) Q. Did there come a time when you decided to sell the stock
(25) that you held at this time in Doral Financial Corporation?

(1) Q. After you sold the Doral stock, did you continue to pay
(2) attention to the company?
(3) A. Yes. I generally do.
(4) Q. What is your purpose for doing it?
(5) A. Well, I did a lot of work. I liked the company and you
(6) never know when you might have another great opportunity to buy
(7) the stock. That is typically what I do.
(8) Q. Did you continue to have contact with people at Doral
(9) management even after you sold the stock that you had held?
(10) A. Yes.
(11) Q. Who did you continue to speak to?
(12) A. Sammy, Ricardo.
(13) Q. You mentioned that Ricardo at one time was the assistant to
(14) CFO. Do you know whether he became the CFO over time?
(15) A. He did after the CFO retired.
(16) Q. Can I have you turn your attention now to a document that
(17) has been marked for identification as 1102. It should be the
(18) next document in your binder.
(19) A. Yes.
(20) Q. Can you take a moment to look at the second page and then
(21) the first page of the document.
(22) A. (Pause)
(23) Q. Can you generally describe what this document is if you
(24) recognize it?
(25) A. Sure. It's a chain of e-mails. I was visiting Puerto Rico

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[1] with my wife and as typical, I was hoping to do some business
[2] down there by meeting with the company. Since I was going to
[3] Puerto Rico, I thought it made sense to spend a few hours or
[4] half a day meeting with the company because it was a good
[5] opportunity to do that and I was still very interested in the
[6] stock.
[7] Q. What is the date of your e-mail and who was your e-mail to?
[8] A. My first e-mail was Tuesday, November 23rd, to Sammy, and
[9] it was basically stating to Sammy that I was --
[10] Q. Let me hold off on what the e-mail says. Is there also a
[11] response from Mr. Levis to you?
[12] A. There is.
[13] MR. BRAUN: The government moves Exhibit 1102 into
[14] evidence.
[15] THE COURT: Received.
[16] MR. SREBNICK: May I confer with counsel about a --
[17] THE COURT: Of course, of course.
[18] (Pause)
[19] THE COURT: Are you set?
[20] MR. BRAUN: We are, your Honor. We have an
[21] understanding.
[22] THE COURT: Okay. On the basis of what you've done,
[23] 1102 is received.
[24] (Government Exhibit 1102 received in evidence)
[25] MR. BRAUN: Thank you, your Honor.

[1] continues to expand and should contribute over 55 percent of
[2] net income. The insurance side is also doing extremely well.
[3] A lot of earning potential (ammunition) behind our net interest
[4] margin still have 2 billion in cash waiting to be redeployed.
[5] Also high gain on sale should be sustained in 2005 even if
[6] rates go up. Already sold forward most of our nonconforming
[7] and most profitable loan production. Please feel free to
[8] contact Ricardo or Sonia. Happy Thanksgiving. Best regards,
[9] Sammy."
[10] Q. Did you take the trip to Puerto Rico you referred to?
[11] A. I did.
[12] Q. Did you meet with Sammy Levis on that trip?
[13] A. Sammy wasn't there, no.
[14] Q. Did you continue following Doral after you made the trip to
[15] Puerto Rico?
[16] A. I did.
[17] Q. Did you continue to be interested in the company as a
[18] possible investment opportunity?
[19] A. I did.
[20] Q. Do you recall seeing any news release from the company in
[21] January 2005?
[22] A. Yes.
[23] Q. Can you turn your attention to a document that has already
[24] been admitted into evidence as Government Exhibit 194. Do you
[25] recognize Exhibit 194, Mr. Saluck?

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[1] BY MR. BRAUN:
[2] Q. Mr. Saluck, can you now read just the first couple of lines
[3] of your message to Sammy Levis on November 23rd, 2004.
[4] A. Sure. "Sammy, I will be in Puerto Rico with my wife from
[5] December 1st to the 5th. I would like to meet with you and get
[6] an update on the company. Also any restaurants or suggestions
[7] on what would be good to do would be most appreciated."
[8] Q. Mr. Levis responds to your e-mail, correct?
[9] A. He did.
[10] Q. Turning to the portion of Mr. Levis' response, in which he
[11] addresses your request for an update on what's happening at the
[12] company --
[13] A. Yes.
[14] Q. -- first of all, before reading that, was this prior to any
[15] decision you made to invest again in Doral Financial?
[16] A. It was.
[17] Q. Could you read Mr. Levis' response to your question
[18] regarding an update on things at the company.
[19] A. Okay, sure. I will pass the restaurant part.
[20] "Regarding an update, I can tell you that the story
[21] keeps getting better. We should continue to outperform in any
[22] interest rate scenario. Actually if rates go up, we should do
[23] even better. The mortgage side continues booming. We are
[24] confident in exceeding loan origination estimates of 7.5
[25] billion to about 7.7 billion. Our commercial banking side

[1] A. I do.
[2] Q. Do you recall seeing this press release when you were
[3] following Doral in January of 2005?
[4] A. Yes.
[5] Q. About four paragraphs down in the release there is some
[6] news about the interest-only strips. Do you see that?
[7] A. I do. It is five paragraphs down?
[8] Q. I think so. It begins, "Investment activities for the
[9] first quarter?"
[10] A. Five paragraphs down.
[11] Q. What do you recall seeing in that part of the press
[12] release? You don't need to read it, but if you could describe
[13] generally what you took away from it, what I said?
[14] A. Sure, they wrote down or took a loss on the value of their
[15] interest-only strips.
[16] Q. Do you recall whether that loss had been offset by anything
[17] on the positive side for Doral?
[18] A. They had -- let me just take a look at this.
[19] Q. If it helps you, can look at the paragraph above the one we
[20] are we were talking about relating to the IO write-down.
[21] A. There was a tax benefit which offset the impact of the
[22] write-down of these IO strips.
[23] Q. These IO strips, from your prior experience investing in
[24] this company and all the research you had done, had the subject
[25] come up for you? Did you have an understanding of what those

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(1) were?
(2) **A.** Yes, that was very important, actually.
(3) **Q.** Why was it important to Doral and you as an investor in
(4) Doral?
(5) **A.** Because a lot of the growth came from the gain on sale
(6) which was represented by these IO strips, and the value of the
(7) IO strips was very important to the company.
(8) **Q.** Prior to this time period, had you learned anything from
(9) Doral regarding the way in which it valued this asset other
(10) than what it was doing internally at the company?
(11) **A.** Sure.
(12) **Q.** What had you learned in that regard by this time period,
(13) Mr. Saluck?
(14) **A.** I had been told that the company, in addition to valuing
(15) these strips internally at the company, they hired two
(16) independent entities, very large entities to also provide third
(17) party valuations and then what they would do is take the lowest
(18) valuation which seemed to me pretty conservative.
(19) **Q.** Was that at all important to you as an investor and
(20) potential investor?
(21) **A.** Sure.
(22) **Q.** Why so?
(23) **A.** Well, if a company is valuing something internally, they
(24) can make anything up and there is no way to verify that
(25) independently. If you have two major entities that are also

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(1) doing the same type of work and they're presumably independent,
(2) then that should give people comfort that the valuations are,
(3) in fact, accurate especially if a company is doing what they
(4) say they do, which is taking the lowest valuation.
(5) **Q.** Mr. Saluck, do you recall generally what interest rates
(6) were doing during this time-frame?
(7) **A.** Yes.
(8) **Q.** What is that?
(9) **A.** They were generally inching up a little bit a month every
(10) month they were being raised, every other month.
(11) **Q.** Were you following Doral's stock price during this period
(12) of time when the press release came out?
(13) **A.** Yes.
(14) **Q.** Do you recall the stock price developing in any way after
(15) the news that was announced on January 18th of '05?
(16) **A.** Yes.
(17) **Q.** What took place with the stock price?
(18) **A.** It went down pretty meaningfully.
(19) **THE COURT:** It went down what?
(20) **THE WITNESS:** The stock price declined for that period
(21) about 15, 20 percent.
(22) **BY MR. BRAUN:**
(23) **Q.** Did that draw your interest, Mr. Saluck?
(24) **A.** It did.
(25) **Q.** Did you participate in any communications with management

(1) during that time-frame?
(2) **A.** Sure.
(3) **Q.** What do you recall doing to communicate with management or
(4) to hear from management during the post-write-down period of
(5) time?
(6) **A.** Well, several things. I wanted to understand why the
(7) write-down was taken, what protections were in place so that
(8) there wouldn't be future write-downs and generally spoke about
(9) the business in the hope that I was going to be able to figure
(10) something out that the other investor, the investment public
(11) didn't and that is why the stock came down.
(12) I thought maybe I could gain insight that would help
(13) me buy the stock at a good price when people were panicking or
(14) just not sure what was going on.
(15) **Q.** So what did you do to try and find answers to your
(16) questions, Mr. Saluck?
(17) **A.** Spoke to research analysts, read every report I could,
(18) spoke to Sammy by phone and generally sharpened our pencils and
(19) tried to put it altogether and figure out if it made sense. I
(20) did have several calls with Sammy and also --
(21) **THE COURT:** Calls with what?
(22) **THE WITNESS:** Sammy Levis and also Ricardo Melendez.
(23) **BY MR. BRAUN:**
(24) **Q.** Do you recall participating in any investor conference
(25) calls during this period of time?

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(1) **A.** This is a time-frame, yes.
(2) **Q.** During the time-frame, the days following this write-down
(3) announcement on January 18th?
(4) **A.** Sure. Sorry about that.
(5) **Q.** No, not at all.
(6) **A.** Yes, there was at least one that I remember and it was a
(7) Deutsche Bank call and it was others as well where the company
(8) was trying to -- that is the one I remember specifically at
(9) that time. The company was trying to get out there and tell
(10) their story.
(11) **Q.** What do you recall generally about this Deutsche Bank call?
(12) Can you describe for us what kind of call this was without
(13) getting into the content of it.
(14) **A.** Sure. Without getting into the context, it was a call set
(15) up by Deutsche Bank. Deutsche Bank had an analyst that was
(16) positive on the stock, and he set up the call so that Sammy and
(17) David Levis would be able to explain more about why the company
(18) was doing well and this wasn't a big issue. It gave investors
(19) like myself a chance to participate and ask some questions.
(20) **Q.** Did you participate and ask some questions?
(21) **A.** I did.
(22) **Q.** Were there other investors on the call as well?
(23) **A.** Yes.
(24) **Q.** You said you recalled that it was Sammy and David Levis who
(25) were participating on behalf of Doral?

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[1] A. Yes.
 [2] Q. Did you understand that they were related?
 [3] A. Yes.
 [4] Q. What was their relationship as you understood it?
 [5] A. I think --
 [6] Q. If you don't know exactly what it was, that is fine.
 [7] A. David, I think, might have been Sammy's father. I am not
 [8] sure. I don't remember. It was a big clan.
 [9] Q. Did you learn anything on the conference call from the
 [10] Doral representatives that was relevant to you?
 [11] A. Sure.
 [12] Q. What do you recall learning on the conference call?
 [13] A. What I learned is that they were proactive, and being what
 [14] they said was very conservative in writing down the value of
 [15] the IOs by using aggressive interest rate assumptions, and the
 [16] idea was they were able to do that because they had a windfall,
 [17] tax windfall they could use to offset that to basically smooth
 [18] their earnings.
 [19] Q. What do you mean by aggressive in the interest rate
 [20] assumptions? Can you explain that?
 [21] A. In the sense that they felt their assumptions were
 [22] unrealistic and they used higher interest rates than they would
 [23] ordinarily use so they could basically get the write-down
 [24] finished and wouldn't have to worry about that in the future.
 [25] Essentially how I viewed that is that they were being

[1] very positive signal.
 [2] Q. What about if they sell stock?
 [3] A. The same thing.
 [4] Q. The same kind of report is required to be filed?
 [5] A. Yes.
 [6] Q. Did you make any decisions following this conference call
 [7] that you just described?
 [8] A. I did.
 [9] Q. What did you decide to do, Mr. Saluck?
 [10] A. I thought it was time to buy the stock. I was reassured by
 [11] management, and the stock looked cheap to me so I started
 [12] buying it.
 [13] Q. Do you recall what the nature of your investment was at
 [14] that time?
 [15] A. A few million dollars, I believe. I don't have the number
 [16] specifically, but I think it was a couple of million dollars.
 [17] Q. Did you have any opportunity to meet personally with Sammy
 [18] Levis during the weeks that followed?
 [19] A. Yes.
 [20] Q. Do you recall when and where that meeting took place?
 [21] A. I do. It was at the beginning of February 2005, and it was
 [22] at the Roosevelt Hotel and it was the Brean Murray conference.
 [23] Brean Murray is a brokerage firm that had an analyst that wrote
 [24] reports about the company and they had a Puerto Rican
 [25] conference for banks that are in Puerto Rico.

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[1] super conservative so they wouldn't have to take write-downs in
 [2] the future. They also talked about how good their business was
 [3] doing.
 [4] Q. Did they say anything about management decisions to
 [5] purchase Doral stock?
 [6] A. They did, they said they had an intention to purchase
 [7] stock. I think they said something about a waiting period.
 [8] Typically you can't participate right away, you have to wait
 [9] until news is out in the public.
 [10] So you couldn't buy it right after an earnings. You
 [11] have to wait a certain amount of time, but they did indicate
 [12] they were going to do that.
 [13] Q. Does that send any signal to you as a potential investor?
 [14] A. That is a very important signal, among other things. For
 [15] management to have skin in the game and put their own money
 [16] into a stock when it was down, to me, meant they not only were
 [17] telling people it was cheap, but they thought it was cheap with
 [18] their own money. That is a big deal.
 [19] Q. How do investors out in the public find out whether or not
 [20] management is buying or selling stock in their company?
 [21] A. After management buys stock, they're required within a
 [22] certain period of time, usually 5 or 10 days, to file with the
 [23] SEC, and at that time that filing is made public, so investors
 [24] or anybody can access the filing by looking at the company and
 [25] they can see what management has purchased. It is considered a

[1] Q. Did you attend the conference?
 [2] A. I did.
 [3] Q. Did you see Mr. Levis there?
 [4] A. Well, I did. I saw his presentation, but I also had
 [5] something called a one-on-one meeting with Sammy, which for
 [6] good clients of the brokerage firms, they'll set up individual
 [7] meetings with management teams when they're not presenting.
 [8] Q. Is the presentation made to a large group of folks?
 [9] A. The presentation is, yes.
 [10] Q. So you had an opportunity after Mr. Levis made his
 [11] presentation to speak with him one-on-one?
 [12] A. I did.
 [13] Q. Do you recall that conversation?
 [14] A. Yes, very clearly.
 [15] Q. Can you describe the conversation that took place between
 [16] you and Mr. Levis in that one-on-one meeting at the Brean
 [17] Murray conference?
 [18] A. Sure. You know, a half hour, maybe 40 minutes to talk to
 [19] him about any questions I would have. A lot of times you don't
 [20] want to ask questions that would engender a broad answer. You
 [21] don't have opportunity, and this was a great opportunity to go
 [22] through his business in detail.
 [23] I asked him how his earnings were going, how the
 [24] business was going. I also focused on the IOs and whether or
 [25] not -- you know, what the risk was with the IOs. Like what was

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(1) the worst-case scenario, what could be expected and what was
(2) sort of likely or unlikely to happen.

(3) Q. Why were you focused on the interest-only strips during
(4) this period of time?

(5) A. That is a big part of the value, and sort of the growth of
(6) the company was selling mortgages to generate gain on sale, and
(7) this was the valuation of the IOs were, you know, subject to
(8) debate and there were certain people that were negative on the
(9) company that thought they were overvalued.

(10) My goal was to try to figure out how bad could it get,
(11) if you will, and what my risk was.

(12) Q. What do you recall Sammy Levis saying to you in response to
(13) your questions on the interest-only strips?

(14) A. Sammy said something that was really important to me and
(15) the investment, which is I had known from Sammy that they had
(16) interest rate caps which are contractual caps with each of the
(17) entities that they sold their mortgages to that the interest
(18) that Doral had to pay their purchasers wouldn't exceed a
(19) certain amount.

(20) To me, I was trying to find out where those caps were.
(21) Were they close to where the coupon rate was, in which case the
(22) IOs could be written down to almost nothing because it would
(23) leave very little for Doral to participate in in the future if
(24) they wrote them down, or was there a place where the caps would
(25) kick in and Doral would be guaranteed a certain stream of

(1) response?

(2) A. Sure. Sammy told me that they were up against the caps.
(3) meaning they were very close, the interest rates were very
(4) close to the caps, which meant that there was at a point where
(5) the caps would kick in and Doral would not be required to pay
(6) any interest greater than where the caps were.

(7) I asked him how much, what was the maximum risk, and
(8) he told me that the risk was about \$25 million. Well, given
(9) the numbers that people were worried about and what I was
(10) worried about, that wasn't a very big deal. To me that was
(11) pretty significant in terms of my comfort in what the IOs were
(12) valued correctly.

(13) Q. Mr. Saluck, I think you mentioned a moment ago that from
(14) this conversation with Mr. Levis, he told you these caps were
(15) in the contracts. Is that correct?

(16) A. Yes.

(17) Q. You're familiar with something called an interest rate cap
(18) that can be bought out in the marketplace, a security or
(19) derivative instrument that the company can go buy?

(20) A. Yes.

(21) Q. Would it have made a difference to you whether or not these
(22) caps Mr. Levis described for you at the Brean Murray conference
(23) were actually in Doral's contracts with the purchasers of its
(24) mortgage loans as compared to caps you could buy in the
(25) marketplace?

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(1) income.

(2) THE COURT: What?

(3) THE WITNESS: Guaranteed a certain stream of income.
(4) When contractual caps were invoked, meaning interest rates got
(5) to the level that contractual caps were struck at, then Doral
(6) would not be required to pay any more interest to the
(7) purchasers, so their IOs couldn't be written down potentially
(8) beyond a certain point.

(9) THE COURT: That was what you were interested in
(10) finding out, right?

(11) THE WITNESS: I was interested in trying to understand
(12) what kind of risk the IOs represented at that point. So a big
(13) part of it is how much interest Doral can receive when the
(14) borrower pays the coupon payment. Doral received the payment
(15) and then they have to pay a certain portion out to the entity
(16) that they sold the mortgage to. Then they keep a portion.

(17) The question was how much do they keep?

(18) That relates directly to the value of the IO strips.
(19) If they don't keep a lot, then the IOs aren't worth much. If
(20) they get to keep more than, then the IOs are worth more. What
(21) I was trying to understand is how bad could it get for the IOs,
(22) how much could Doral keep in a bad scenario.

(23) BY MR. BRAUN:

(24) Q. When you asked your questions about where these caps were,
(25) what do you recall Mr. Levis telling you, if anything, in

(1) A. Sure, because they were agreed-upon limitations on how much
(2) Doral would have to pay out. So basically if the caps were
(3) close to the current interest rates, that meant as rates went
(4) up, which they were going up, then Doral wouldn't have to pay
(5) more than a certain amount.

(6) THE COURT: Doral would pay or not have to pay?

(7) THE WITNESS: They would not have to pay. In other
(8) words, they would keep more of the interest that the borrower
(9) was paying. They wouldn't have to pay the buyer of their loans
(10) more than a specified amount as contained in that contract.

(11) BY MR. BRAUN:

(12) Q. How would that form of contractual cap differ from your
(13) perspective than some type of hedging instrument?

(14) A. Well, a hedge is different in the sense that the company
(15) would make assumptions and try to figure out what the bad
(16) scenario might look like in the future and protect against
(17) that, but a contractual cap is a specific and absolute
(18) protection against interest rates going higher. It is the
(19) highest form of protection, if you will.

(20) Q. When Mr. Levis told you this, was it important to you?

(21) A. Very.

(22) Q. As a result of this conversation you had with Mr. Levis at
(23) the Brean Murray conference, did you take any action?

(24) A. I bought more stock.

(25) Q. What were your reasons for doing so?

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[11] A. Well, several reasons: One, I thought that the street or
[12] analysts and the investment community didn't fully appreciate
[13] that Doral's risk was contained because they had these
[14] contractual caps, which meant that the value of these IOs was
[15] pretty good. I mean there was very little possibility of
[16] significant write-downs in the future.

[17] He also told me their earnings were very strong and
[18] things were going well and they were going to meet analysts'
[19] expectations, too. The IO was the most important thing for me
[20] because it gave me confidence that I wasn't missing anything
[21] and there was a real limit to how much Doral would have to
[22] write down. That was very important.

[23] Q. Did you have additional conversations with Mr. Levis after
[24] this meeting that took place in New York in early February that
[25] you just described?

[1] A. Sure.

[2] Q. What kinds of communications did you have with him
[3] subsequently?

[4] A. Phone calls where I confirmed what he said at the Brean
[5] Murray conference about the caps and earnings and about the
[6] business in general. It was part of my ongoing due diligence
[7] which I do with every company.

[8] Q. Did those calls take place in February of '05 after this
[9] conference you attended?

[10] A. Yes.

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[1] Q. You mentioned as part of the research you do, you sometimes
[2] study analyst reports that come out?

[3] A. True.

[4] Q. Could I turn your attention to a document that has been
[5] marked for identification in your binder there as Government
[6] Exhibit 1208, 1208?

[7] A. Okay.

[8] Q. Can you describe what Exhibit 1208 is.

[9] A. It is a report by a company called Hibernia Southcoast
[10] Capital, a small brokerage firm that had an analyst who was not
[11] so optimistic about Doral's prospects.

[12] Q. What does it mean for an analyst to downgrade a rating,
[13] Mr. Saluck?

[14] A. Well, for an analyst -- analysts generally recommend
[15] stocks. They do business with the companies and they follow
[16] companies and they tend to write about companies that they
[17] like.

[18] So I guess he had the company in a buy, meaning he
[19] recommended to investors that you should buy the stock of Doral
[20] and here's why. In this report he said basically we had the
[21] stock at a buy, we are downgrading it because of things that
[22] concern us, basically a signal to investors you may not want to
[23] buy the stock. If you own it, you may want to sell it.

[24] Q. Were those concerns analysts expressed related primarily to
[25] the IOs?

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[1] A. I know IOs were a part of this and a gain on sale margin --
[2] yeah, IOs were a big part of it and there were other elements
[3] as well.

[4] MR. BRAUN: Your Honor, could I have a moment to
[5] confer with counsel?

[6] THE COURT: Sure.

[7] (Pause)

[8] MR. BRAUN: Your Honor, if you could give us a moment,
[9] I am waiting to hear back from counsel.

[10] THE COURT: Sure.

[11] (Pause)

[12] BY MR. BRAUN:

[13] Q. Mr. Saluck, could I now turn your attention to Government
[14] Exhibit 1103, the next document in your binder.

[15] A. Let's see.

[16] THE COURT: Wait a minute. You marked for
[17] identification 1208?

[18] MR. BRAUN: But we have not offered it.

[19] THE COURT: All right. So the next one is 1103?

[20] MR. BRAUN: Correct, your Honor.

[21] THE COURT: All right.

[22] BY MR. BRAUN:

[23] Q. Do you have 1103 in front of you, Mr. Saluck?

[24] A. I do.

[25] Q. You recognize what 1103 is?

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[1] A. I do.

[2] Q. Can you describe it generally before getting into the
[3] substance of it.

[4] A. Well, after the Hibernia report, which was a negative
[5] analyst report, I got worried and I sent the report to Sammy
[6] and asked him if he could comment on it and what did he think
[7] about it and could he respond, so basically rebut some of the
[8] somewhat negative points in the Hibernia report.

[9] Q. Is 1103 your e-mail exchange with Sammy Levis relating to
[10] the Hibernia analyst report you saw a moment ago?

[11] A. Yes.

[12] Q. The date of your e-mail to Mr. Levis is what?

[13] A. March 8th.

[14] Q. Does he respond on the same day?

[15] A. Yes, yes, he did, four hours later.

[16] MR. BRAUN: Your Honor, the government offers 1103
[17] into evidence.

[18] THE COURT: Received.

[19] (Government Exhibit 1103 received in evidence)

[20] BY MR. BRAUN:

[21] Q. Mr. Saluck, could you read your message to Mr. Levis on
[22] March 8th.

[23] A. Sure. "Sammy, I have bought a bunch of your stock but
[24] wanted to speak to you before I bought more in light of the
[25] Hibernia research report. I just wanted to go through it with

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(1) you to try to understand why they came to the conclusions they
(2) laid out in the report. I hope you are well. Are you planning
(3) on addressing the issues they raised in the release? Hope you
(4) are well."
(5) Q. Can you now read Mr. Levis' response to you on the same
(6) day.
(7) A. Sure. "Referred to the attached above, which is a Word
(8) document attachment, write-up addressing point by point. After
(9) you read it, it should answer most of your questions. I am out
(10) of the office but able to respond by e-mail if you have
(11) additional questions. Nothing has changed. On Tuesday we are
(12) releasing 10K detailing a lot of new disclosure and the
(13) following day we are having our first investor conference call
(14) to answer any questions pertaining to the 10K. We will
(15) announce the details of the call tomorrow. This is a golden
(16) buy opportunity, in my view."
(17) Q. Can you turn your attention now to a document that has been
(18) marked for identification as 1109. It should be the next one
(19) in your binder.
(20) A. Yes, I have it.
(21) Q. Do you recognize 1109?
(22) A. I do.
(23) Q. What is Exhibit 1109?
(24) A. It is entitled, "Reaction to Hibernia report of March 7th,
(25) 2005."

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(1) Q. Is this what Mr. Levis attached to his e-mail to you
(2) seeking his comments on the Hibernia report?
(3) A. Yes.
(4) Q. Did it contain his defense in response to that analyst
(5) report?
(6) A. Yes.
(7) MR. BRAUN: Your Honor, the government offers 1109
(8) into evidence.
(9) THE COURT: Received.
(10) (Government Exhibit 1109 received in evidence)
(11) BY MR. BRAUN:
(12) Q. Did you find the response helpful, Mr. Saluck?
(13) A. I did.
(14) Q. Can you turn past that for a moment. Can you tell us
(15) whether or not you're familiar with something called the Value
(16) Investors Club?
(17) A. I am. I am a member.
(18) Q. What is the Value Investors Club?
(19) A. The Value Investors Club is a web site for like-minded or
(20) value-oriented investors to submit investment write-ups.
(21) If you get accepted, you're a member of the club and
(22) you have to write up and post on the web site two different --
(23) at least two ideas a year, and other investors can, if they
(24) read it, they rate you, they give you a grade, and it fosters
(25) discourse where they can go back and forth.

(1) If somebody disagrees with you, you can debate points.
(2) It is actually a pretty good forum to have exchange with
(3) different investors.
(4) Q. After you received the response to the Hibernia report that
(5) Mr. Levis sent you, did you post anything on Doral Financial on
(6) the Value Investors Club internet bulletin board?
(7) A. I did.
(8) Q. Can you turn your attention now to Government Exhibit 1107.
(9) THE COURT: Wait a minute. Yes, 1103 and 1109 are in.
(10) Now we are on 1107, okay?
(11) BY MR. BRAUN:
(12) Q. 1107. Do you recognize Exhibit 1107 is in it front of you,
(13) Mr. Saluck?
(14) A. Yes.
(15) Q. What is Exhibit 1107?
(16) A. My write-up of Doral, recommending the stock on March 12th.
(17) Q. In putting together this write-up, did you rely on what you
(18) had written previously regarding Doral the first time that you
(19) invested in the stock?
(20) A. Some of, but I added the recent issues regarding the
(21) Hibernia report and I took the opportunity to address that
(22) proactively because obviously somebody was going to make a
(23) comment about it and ask me about that if I didn't bring it up.
(24) Q. I want to have you look at the first four paragraphs of
(25) your Value Investors Club write-up.

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(1) A. Yeah.
(2) MR. BRAUN: Just give me a moment, your Honor.
(3) (Pause)
(4) MR. BRAUN: Your Honor, we offer this exhibit into
(5) evidence.
(6) THE COURT: Received.
(7) MR. SREBNICK: One moment, your Honor.
(8) MR. BRAUN: It is 1107.
(9) (Pause)
(10) MR. SREBNICK: Got it. Thank you, Judge.
(11) THE COURT: Is there a question or should we read all
(12) of this?
(13) MR. BRAUN: No. I was asking it be received into
(14) evidence, your Honor.
(15) THE COURT: Received.
(16) (Government Exhibit 1107 received in evidence)
(17) BY MR. BRAUN:
(18) Q. Mr. Saluck, the first 1, 2, 3, 4 paragraphs of this, do
(19) those essentially restate the substance of what you had already
(20) written during the earlier period of time in which you were
(21) invested in Doral that we see in Exhibit 1104?
(22) A. Yes.
(23) Q. Then picking up from there from what you previously wrote,
(24) you start recently a Hibernia Research Report came out and
(25) downgraded the stock?

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[1] A. Yes.

[2] Q. Is that where you're beginning to add to what you had

[3] previously wrote?

[4] A. Yes. What I was trying to do was give Sammy's response a

[5] forum, if you will.

[6] Q. All right. So in the paragraphs of 1107, this Value

[7] Investors Club piece that you posted that relate to the

[8] Hibernia report, what relation is there between what you posted

[9] here and what Mr. Levis had sent you?

[10] A. I basically took Sammy's explanation and put it in here.

[11] Q. Okay. That gets posted on the internet?

[12] A. It does.

[13] Q. Members of the club have access to it?

[14] A. Exactly. You have a password and user name.

[15] Q. Not any member of the public can go and see it?

[16] A. There are several hundred members or more but, yeah, it is

[17] not for the general public.

[18] (Pause)

[19] THE COURT: Are you asking us to read this?

[20] MR. BRAUN: No, your Honor. I am just finding the

[21] next document I was to refer the witness to.

[22] THE COURT: All right.

[23] (Pause)

[24] BY MR. BRAUN:

[25] Q. In general, Mr. Saluck, that piece you posted on the

[1] them.

[2] MR. BRAUN: Your Honor, the government moves admission

[3] of Government Exhibit 1104, the e-mail Mr. Saluck just

[4] described.

[5] THE COURT: Received.

[6] (Government Exhibit 1104 received in evidence)

[7] BY MR. BRAUN:

[8] Q. Mr. Saluck, there is another document a couple of tabs

[9] forward in your binder, it is Government Exhibit 1105 that has

[10] been marked for identification.

[11] A. Okay.

[12] Q. Do you recognize that document?

[13] A. I do.

[14] Q. Is this another e-mail exchange between you and Mr. Levis

[15] from about the same time period?

[16] A. Yes.

[17] MR. BRAUN: We move for the admission of 1105, your

[18] Honor.

[19] THE COURT: Received.

[20] (Government Exhibit 1105 received in evidence)

[21] BY MR. BRAUN:

[22] Q. Mr. Saluck, you mentioned a moment ago in your testimony

[23] that after you posted your piece on Doral Financial on the

[24] Value Investors Club web site, that somebody else posted a

[25] negative piece?

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[1] internet bulletin board we just discussed, you were holding

[2] Doral stock at the time, correct?

[3] A. Yes, I owned it, that's right.

[4] Q. What position generally were you taking on the internet

[5] bulletin board?

[6] A. That it is a good buy, I owned the stock and they would buy

[7] it. Hopefully they would agree and the stock goes up.

[8] THE COURT: A little louder if you could.

[9] THE WITNESS: Sure. I am trying to introduce

[10] investors to stocks I like. Everybody knows that if you post

[11] something, you probably own it and you're hoping other people

[12] agree and will buy the stock and provide additional investors

[13] with the stock which will make the stock go up over time.

[14] BY MR. BRAUN:

[15] Q. Can I turn your attention back to Government Exhibit 1104.

[16] A. Sure. Okay.

[17] Q. I want to direct your attention to the top part of this

[18] document from the March 15th time-frame. Do you see that?

[19] A. My e-mail?

[20] Q. Yes. Can you describe what this, what this document is?

[21] A. I sent an e-mail to Sammy and Ricardo Melendez because on

[22] the same Value Investors Club web site somebody put out a very

[23] critical piece, which is pretty unusual, the same week, and I

[24] was disturbed by some of what the person was saying and I

[25] wanted to forward it to Sammy and Ricardo and discuss it with

[1] A. Yeah.

[2] (Continued on next page)

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(1) assumes no changes in prepayment speeds."
(2) **Q.** Can you summarize what's reflected there in the table
(3) underneath that sentence, the one on top that says "changes in
(4) fair value of IO"?
(5) **A.** Sure. It shows you hypothetically what would happen to the
(6) value of these IOs if interest rates went up, and it chose 25
(7) basis-point increments, which is a quarter of a percent, 50
(8) basis points, which is half a percent, 100 basis points, which
(9) is 1 percent, and 200 basis points, which is 2 percent
(10) increase.
(11) **Q.** For example, according to this disclosure, what happens to
(12) the IOs if interest rates go up 1 percent or 100 basis points.
(13) **A.** The IOS, the value gets reduced by 275 million.
(14) **Q.** Mr. Saluck, did you have a reaction to the statement
(15) regarding the interest rate caps that you read a moment ago as
(16) well as to the information reflected in the table we just
(17) reviewed?
(18) **A.** I had a very clear reaction.
(19) **Q.** Can you describe what that reaction was?
(20) **A.** Somewhere close to panic, because I didn't see that
(21) anything about contractual caps in here, and there was no
(22) disclosure about contractual caps close to the current interest
(23) rate, and when I looked at this table, and I saw very minor
(24) movements in interest could cause such big write-downs in IOs,
(25) I was worried because certainly a hundred basis point increase

(1) **A.** They are, but it was very different than what I had come to
(2) understand, and they basically said the caps were somewhere
(3) near the coupon rate the borrower was paying, which means that
(4) the company, Doral, would not be required to pay more than they
(5) were getting from borrowers to the purchasers of their loans.
(6) But certainly basically the entire value of the IO could be
(7) lost because they weren't really caps the way they were
(8) explained to me.
(9) **Q.** What about the disclosure regarding this call option?
(10) **THE COURT:** Please, just a minute. What about what it
(11) says, where it says, to a lesser extent, and so forth, what did
(12) that mean to you?
(13) **THE WITNESS:** Well, it meant that there might have
(14) been some protection up to the interest rate or coupon of the
(15) loan, but it certainly was a lot more expansive than what I had
(16) come to know based on conversations that I had with Sammy.
(17) **THE COURT:** What do you mean more expansive?
(18) **THE WITNESS:** In other words, this is saying that the
(19) company wouldn't have to pay more than the coupon that the
(20) borrowers were paying, the underlying borrowers for the
(21) mortgages, but there was, in certain instances, some level of
(22) protection below that. However, this language was a lot
(23) different than what was represented to me. This did not imply
(24) the kind of protection that caused me to buy the stock.
(25) **BY MR. BRAUN:**

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(1) in interest rates, given what Greenspan was doing at the time,
(2) was plausible. And the company in their 10K said it could
(3) cause hypothetically a \$275 million reduction in their IOs,
(4) which is ten times what I thought the company's maximum risk
(5) was based on what Sammy was telling me.
(6) **Q.** What did you mean a moment ago when you referred to
(7) Mr. Greenspan and what he was doing?
(8) **A.** I'm sorry. The fed was increasing interest rates. He was
(9) the chairman.
(10) **THE COURT:** Mr. Greenspan was chairman of the Federal
(11) Reserve.
(12) **THE WITNESS:** Alan Greenspan, yes.
(13) **BY MR. BRAUN:**
(14) **Q.** You said they didn't say anything about contractual caps?
(15) **A.** No.
(16) **Q.** But from what you read a moment ago --
(17) **THE COURT:** Can you turn back to that language?
(18) **BY MR. BRAUN:**
(19) **Q.** Turn back to page 37.
(20) **A.** Yes.
(21) **THE COURT:** Right.
(22) **BY MR. BRAUN:**
(23) **Q.** When you began reading, "Generally the loans sold are
(24) subject to interest rate caps," they are saying something about
(25) caps?

(1) **Q.** This disclosure also mentions a call option?
(2) **A.** It does.
(3) **Q.** Did you understand what a call option would entail, what
(4) that would be about?
(5) **A.** I did.
(6) **Q.** What was your understanding of that, Mr. Saluck?
(7) **A.** My understanding was that if the interest rates rose to a
(8) certain level, the company, meaning Doral, could purchase back
(9) these instruments so that they could earn whatever was left on
(10) the IO strips.
(11) **Q.** If they were able to buy back the loans, if interest rates
(12) got high enough --
(13) **A.** Right.
(14) **Q.** -- would that afford the kind of protection that you had
(15) been led to believe existed?
(16) **A.** Not at all.
(17) **Q.** Why not, Mr. Saluck? Why wouldn't a call do the job?
(18) **A.** Because they would have to buy it back and spend the money
(19) they were booking as a gain. They basically sold these, booked
(20) gains, or profits over, you know, the number of years, and if
(21) they had to buy it back, that meant that they were trying to
(22) prevent further write-down of these IOs. They would buy it
(23) back at a certain price if they got cheap enough, if interest
(24) rates went up, the value of the IOs went down.
(25) **Q.** If they bought it back, what would happen to their

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[1] gain-on-sale income projected forward?

[2] **A.** It would have to be reversed, which meant that their

[3] earning stream for the past several years would be written down

[4] or basically reversed, and they would be telling the world the

[5] earnings we made in the past several years weren't real or

[6] weren't appropriate and we had to reverse them.

[7] **Q.** Earlier in your testimony, Mr. Saluck, there was some

[8] reference to an investor conference call that was going to take

[9] place after the 10K was filed?

[10] **A.** Yes.

[11] **Q.** Were you expecting such a conference call to occur after

[12] the filing of the 10K?

[13] **A.** Yes.

[14] **Q.** Why were you expecting the conference call?

[15] **A.** Well, I was hoping, praying, that the company would talk

[16] about these contractual caps and the sort of heightened risk

[17] protection and the limitations, the real risk that these IOs

[18] had that were sort of consistent with what Sammy had told me.

[19] I was hoping that they would discuss it, and if not, I planned

[20] on asking them about it in some way.

[21] **Q.** Did you participate in a conference call that took place on

[22] or about March 17, 2005, two days after the filing of the 10K?

[23] **A.** I did.

[24] **Q.** Do you recall whether or not Mr. Levis was one of the Doral

[25] representatives on that call?

[1] would perceive as negative which would hurt the value of my

[2] stock I was holding. It was already painful enough.

[3] **Q.** So, with that in mind, did you ask the question about the

[4] caps and what would your reason for doing so be?

[5] **A.** I did, and the reason would be to throw the company a

[6] softball to give them a chance to come back to the investment

[7] community with an answer that would explain why the company's

[8] IOs weren't at the kind of risk that it certainly read by

[9] looking at the 10K, in other words, that the risk was a lot

[10] lower and the real probability of write-down wasn't high at all

[11] because these caps as they were described to me protected the

[12] company in a very significant way.

[13] **Q.** Were you still hopeful that they would provide such

[14] response in spite of what was in the K?

[15] **A.** I was hoping.

[16] **THE COURT:** You were hoping, right? I didn't hear

[17] you.

[18] **THE WITNESS:** Yes. I was hoping. I was hanging on to

[19] my stock because I was worried, but I was very nervous that if

[20] there weren't caps that I was wrong and that all these negative

[21] arguments were right, which wouldn't have been good for my

[22] stock.

[23] **BY MR. BRAUN:**

[24] **Q.** These are negative arguments you referred to earlier,

[25] people who were more critical of Doral than you had been?

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[1] **A.** He was.

[2] **Q.** I'm talking about Sammy Levis.

[3] **A.** He was.

[4] **Q.** Were there a couple of other Doral officials on the call as

[5] well?

[6] **A.** Salomon Levis was on the call, and, yeah, there were

[7] several others, including Salomon.

[8] **Q.** Were there various people from the investing community as

[9] well in addition to yourself?

[10] **A.** Many.

[11] **Q.** Was it a short call, a lengthy call?

[12] **A.** It was a long call.

[13] **Q.** You said they were hoping they would say something about

[14] the caps?

[15] **A.** Right.

[16] **Q.** Correct?

[17] **A.** Yes.

[18] **Q.** Did you have an opportunity to pose questions during the

[19] call?

[20] **A.** I asked a couple.

[21] **Q.** And did your questions include one relating to the

[22] contractual caps?

[23] **A.** Well, I did ask questions, but you have to keep in mind

[24] that I owned the stock so I didn't want to ask questions which

[25] were too difficult which might elicit answers which people

[1] **A.** Sure.

[2] **Q.** When you posed a question during the conference call about

[3] the caps that you thought at least you had been told were

[4] there, who responded to your questions?

[5] **A.** I think it was Sammy.

[6] **Q.** What do you recall him saying as best you can recall?

[7] **A.** They kind of evaded the answer.

[8] **THE COURT:** A little louder, if you could.

[9] **THE WITNESS:** Sure, I'm sorry. Basically the

[10] company's response was they repeated what was in the 10K, they

[11] didn't answer directly whether or not there were contractual

[12] caps. By not saying anything they to me said they didn't have

[13] it because I couldn't understand why they wouldn't have said

[14] that they had contractual caps if they did. They wouldn't have

[15] said it if they had in fact had them. So I was hoping they

[16] would tell the same story that they'd been telling me.

[17] **THE COURT:** Did they or did they not?

[18] **THE WITNESS:** They did not say that there were

[19] contractual caps.

[20] **BY MR. BRAUN:**

[21] **Q.** Then the rest of your answer just now was your

[22] interpretation of that, correct?

[23] **A.** Yes.

[24] **Q.** They didn't come right out and say we don't have it?

[25] **A.** No. But they referred back to the kind of disclosure that

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(1) they talked about in the 10K, which to me meant clearly there
(2) were no caps. They talked about -- well, different types of, I
(3) think they referred back to the way that large cap and stuff
(4) like that --

(5) **THE COURT:** Referred back to what?

(6) **THE WITNESS:** They referred to the disclosure that was
(7) in the 10K, which was basically that they're interest rate caps
(8) which basically protect them from having to pay out on those
(9) loans more than they collect, but there was nothing in the
(10) response that suggested that they had contractual caps that
(11) were close to where interest rates were currently, which was
(12) the key distinction.

(13) **BY MR. BRAUN:**

(14) **Q.** Were you doing anything else when this call was taking
(15) place other than listening to the responses and the questions?

(16) **A.** Fielding very difficult phone calls from my boss and trying
(17) to, you know, it was a distressing time. I was trying to take
(18) it all in, and I was getting hit with phone calls from my boss
(19) asking me what was going on, why is this down so much. And I
(20) was also sort of flipping through my notes to make sure that I
(21) read this correctly and that I was, you know, that I heard what
(22) I heard, maybe, you know. But my notes were consistent, and I
(23) was panicked. I was upset.

(24) **THE COURT:** You were what?

(25) **THE WITNESS:** Panicked and upset because the stock was

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(1) going down a lot, it was a very large position, and it occurred
(2) to me that the company wasn't being truthful. And I was very
(3) upset.

(4) **BY MR. BRAUN:**

(5) **Q.** Do you recall whether or not during the conference call
(6) anyone asked whether the management team from Doral could
(7) disclose the names of the parties that had provided the
(8) independent valuations?

(9) **A.** Yes, I do remember that.

(10) **Q.** Do you recall what the response was?

(11) **A.** We can't disclose that because they're subject to
(12) confidentiality agreements.

(13) **Q.** Following the call, Mr. Saluck, did you send an e-mail to
(14) Mr. Levis?

(15) **A.** I did.

(16) **Q.** Can you turn your attention to Government Exhibit 1106?

(17) **A.** Okay.

(18) **Q.** Do you recognize what 1106 is, Mr. Saluck?

(19) **A.** I do.

(20) **Q.** What is 1106?

(21) **A.** It's an e-mail correspondence that I had with Sammy Levis
(22) starting on Friday, March 18. There was one response.

(23) **MR. BRAUN:** Your Honor, the government offers 1106.

(24) **THE COURT:** Received.

(25) (Government's Exhibit 1106 received in evidence)

(1) **BY MR. BRAUN:**

(2) **Q.** Mr. Saluck, in your message to Mr. Levis on the 18th, can
(3) you read the portion of it that relates to the independent
(4) valuations?

(5) **A.** Sure. Okay. I sent an e-mail to Sammy which said, "Sammy,
(6) you guys put out a press release saying that you know of only
(7) analysts and S&P downgrades causing stock weakness. I think
(8) it's is pretty clear that this is a reaction to the call. I

(9) speak with a ton of hedge funds. The transaction with regard,"
(10) I can't read that," so I, transaction, oh, with RNG, which is a
(11) bank in Puerto Rico, "and the IO estimates have spooked people.
(12) The best thing you guys can do is find a way to make available
(13) the third-party valuations of your IO portfolios. That could
(14) give your stock a positive analysis.

(15) **Q.** What was nor Levis' response?

(16) **A.** "We stand by our valuations."

(17) **Q.** What was your response to him?

(18) **A.** My response was, "I'm not saying you shouldn't stand by
(19) them, but don't you think by sharing them it would help the
(20) market?" And his response was, "They won't low allow it
(21) because of legal liability, but in any event we are talking to
(22) them."

(23) **Q.** Mr. Saluck, at around this time period, did you take any
(24) action with respect to your investment in Doral or Meisenbach's
(25) investment in Doral?

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(1) **A.** Yes, I sold the stock.

(2) **Q.** What was the result?

(3) **A.** We took a huge loss.

(4) **Q.** How did that loss compare to others you may have taken?

(5) **A.** In my career or in my --

(6) **Q.** Let's say at Meisenbach.

(7) **A.** It was the largest loss we had.

(8) **THE COURT:** It was what?

(9) **THE WITNESS:** It was the largest loss we had at
(10) Meisenbach and probably the largest loss of my career.

(11) **MR. BRAUN:** Your Honor, can you give me a moment to
(12) confer with my colleagues?

(13) **THE COURT:** Sure.

(14) **MR. BRAUN:** We have no further questions, your Honor.

(15) **THE COURT:** All right. Let's take a break.

(16) **MR. SREBNICK:** We have a juror with a question, and I
(17) have a Jencks issue I'd like to raise.

(18) **THE COURT:** We'll take our break.

(19) (Jury excused)

(20)

(21)

(22)

(23)

(24)

(25)

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(1) Q. Based on just your understanding.
(2) A. Sure.
(3) Q. Just your understanding.
(4) THE COURT: At the time.
(5) BY MR. SREBNICK:
(6) Q. At the time, back in 2005, early 2005.
(7) A. Right.
(8) Q. When you're considering making an investment in Doral,
(9) focusing just on that time frame.
(10) A. Right.
(11) Q. Based on all the research you had done?
(12) A. Okay.
(13) Q. All of your understanding of Doral, back then, did you
(14) understand that caps, to the extent that there were caps in the
(15) contracts, literally could range throughout the LIBOR curve
(16) shown on this draft?
(17) A. Sure. But, the company had grown very rapidly, so it was
(18) my view that most of the mortgages, since it had such extreme
(19) growth in the past couple years were done at lower LIBOR rates.
(20) And, secondly, the fact that Sammy told me that the caps were
(21) close to the current interest rates gave me the confidence to
(22) buy the stock.
(23) Q. Okay. Let's talk about those current, the ones that are
(24) more recent loan pools, somewhere along this point in the
(25) curve, so to speak, where my finger is now which. Is 2004?

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(1) A. Sure.
(2) Q. To the extent that there were -- well, the company was
(3) disclosing more and more production of loan pools, correct?
(4) A. True.
(5) Q. And so the ones that were more recently originated, to the
(6) extent that there were caps, would still have some ways to go
(7) before the cap would be triggered, correct?
(8) A. No, I don't agree with that.
(9) Q. In other words, if loans were generated in '04 --
(10) THE COURT: Let him finish his answer.
(11) MR. SREBNICK: I thought you were finished. Forgive
(12) me.
(13) A. In my view, LIBOR was going down, so if there were caps,
(14) then caps were done, in general, the company was experiencing
(15) such rapid growth, the caps in my view were generally a lot
(16) lower which gave me the confidence. However, the key again is
(17) that I was told that the caps were close to the current
(18) interest rates. I can see what was happening; I was living it.
(19) So obviously -- well, maybe it's not obvious. But to me I
(20) would not have made the investment if I didn't think there was
(21) protection, because I had a view that interest rates might
(22) increase and that was a risk. And if I didn't have caps close
(23) to where interest rates are, then it would have been very hard
(24) for me to figure out and the investing public to figure out
(25) what the potential loss was. So it was very important that I

(1) heard that there were contractual caps that were close to where
(2) the current interest rates were, which meant to me that even if
(3) LIBOR curve went back to where it went, I would be protected
(4) because the caps would kick in at some lower rate.
(5) Q. And so it was important to you to understand what the risks
(6) were --
(7) A. Right.
(8) Q. -- in the event of an interest rate rising, fair statement?
(9) A. Exactly.
(10) Q. When you were considering the investment in 2005, it was
(11) after Doral had already announced the \$97.5 million impairment?
(12) A. Yes.
(13) Q. That was a press release that I think the government showed
(14) to you, correct?
(15) A. Yes.
(16) Q. Government Exhibit 194.
(17) A. Thank you.
(18) Q. That's not going to help. And the paragraph beginning with
(19) the words "Investment activities," I think that was the
(20) paragraph you discussed on your direct examination.
(21) A. Correct.
(22) Q. And the company disclosed, second sentence, "The loss due
(23) to impairment on the value of the IOs of 97.5," follow along
(24) there?
(25) A. Mm-hmm, yes.

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(1) Q. As a result of increases in the three-month LIBOR. See
(2) that?
(3) A. Right.
(4) Q. And the company went on to disclose that if, contrary to
(5) what is generally expected, LIBOR decreases, a portion of the
(6) impairment charges on the value of the IOs could be recovered,
(7) right?
(8) A. That's what it says, yes.
(9) Q. And did that lead you to understand that for the
(10) impairment, the loss, so to speak, the noncash loss to be
(11) recovered, LIBOR had to go down, not up?
(12) A. Well, that's true, to recover the loss, that's correct.
(13) However, I was worried about additional losses.
(14) Q. Right.
(15) A. I wasn't worried about the losses that had already
(16) occurred. So to me what this suggested and based on my
(17) conversations was that as interest rates went up, there were
(18) some losses, but as you got closer to the contractual caps, you
(19) wouldn't have losses like that in the future.
(20) Q. And indeed, that's what was discussed at the Brean Murray
(21) conference that you attended here in New York, correct?
(22) A. Yes.
(23) Q. But I want to make sure before we go to the future, I want
(24) to make sure we're clear on the impairment, 97.5.
(25) A. Sure.

Exhibit B

DECLARATION OF MARK S. MEISENBACH

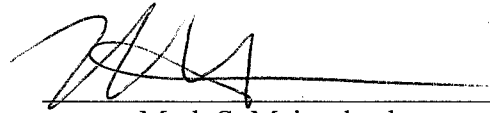
I, the undersigned, Mark Meisenbach, pursuant to 28 U.S.C. § 1746, declare that:

1. I am the founder of Meisenbach Capital Management, Inc. ("Meisenbach") and by reason of this position, I am authorized and qualified to make this Declaration. My position at Meisenbach required me to be familiar with the company's securities trading systems and securities trading records.
2. Meisenbach was a hedge fund founded in 1992. I closed this fund in February 2008 after 16 years in operation. As the founder of Meisenbach, I retained true and accurate records of the company's trading activities.
3. I retrieved records from Meisenbach's securities trading and recording systems evidencing Meisenbach's transactions in the securities of Doral Financial Corporation (ticker symbol NYSE "DRL") in 2005. A true and accurate summary of these records is attached as Attachment A to this Declaration.
4. Specifically, Attachment A of this Declaration depicts (i) each date Meisenbach bought and sold DRL common stock; (ii) the number of shares in each transaction; (iii) the price per share; (iv) for purchases, the cost of each date's purchase; and (v) for sales, the proceeds from each sale. As shown in Attachment A, Meisenbach's total return on its DRL common stock transactions in 2005 was a loss of \$2,199,112.50.
5. Attachment A also reflects certain Meisenbach options activity in DRL in 2005. As shown in Attachment A, Meisenbach's total return on its DRL options activities was a loss of \$837,027.
6. Meisenbach's total return on its DRL securities transactions may be calculated by adding the losses on Meisenbach's common stock and options activities. This calculation yields a total net loss on Meisenbach's DRL securities transactions of approximately \$3,036,139.50
7. I further certify that the information contained in Attachment A truly reflects the trading activities of Meisenbach in DRL securities in 2005 and that this trading data was:
 - (a) recorded at or near the time of the occurrence of the matters set forth therein, by, or from information transmitted by, a person with knowledge of those matters;
 - (b) kept in the course of regularly conducted business activity; and

(c) made by the regularly conducted business activity as a regular practice.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
[date].

11/8/2010

A handwritten signature in black ink, consisting of stylized, overlapping loops and strokes, positioned above a horizontal line.

Mark S. Meisenbach

Attachment A



Security	Description	Side	P/L
DRL	Common	Long	-2,199,112.5000
DRL TG	Aug 35 Puts	Short	-2,932,875.00
DRL TH	Aug 40 Puts	Long	2,087,100.00
DRL HJ	Aug 50 Calls	Short	8,748.00
			<u>-3,036,139.5000</u>

Security	Timestamp	TradeDate	Side	Done	AvgPrc	Mgr	Trdr	Status	Alcd	Nifty	Broker	Comm	Buy	Sells
DRL	1/20/2005 11:21:33 AM	1/20/2005 11:21:33 AM	Buy	20,000	43.2245	SC	JO	DONE	A		BMUR	0.0200	864,890.0000	
DRL	1/20/2005 11:21:33 AM	1/20/2005 11:21:33 AM	Buy	30,000	43.6525	SC	JO	DONE	A		FBRC	0.0500	1,311,075.0000	
DRL	1/21/2005 7:05:24 AM	1/21/2005 11:21:33 AM	Buy	10,000	43.8300	SC	JO	DONE	A		CSFB	0.0300	438,600.0000	
DRL	1/24/2005 7:31:48 AM	1/24/2005 11:21:33 AM	Buy	20,000	42.8455	SC	JO	DONE	A		AMTR	0.0500	857,910.0000	
DRL	1/25/2005 12:14:37 PM	1/25/2005 11:21:33 AM	Buy	10,000	40.9963	SC	JO	DONE	A		MONT	0.0500	410,463.0000	
DRL	2/2/2005 11:45:14 AM	2/2/2005 12:14:37 PM	Buy	15,000	43.3089	SC	JO	DONE	A		BMUR	0.0500	650,398.5000	
DRL	2/18/2005 8:10:34 AM	2/18/2005 11:21:33 AM	Buy	5,000	41.9066	SC	JO	DONE	A		VOLM	0.0100	209,583.0000	
DRL	2/18/2005 8:10:34 AM	2/18/2005 11:21:33 AM	Buy	20,000	42.1239	SC	JO	DONE	A		BMUR	0.0500	843,477.5000	
DRL	2/22/2005 12:16:59 PM	2/22/2005 11:21:33 AM	Buy	10,000	39.1600	SC	JO	DONE	A		JOHN	0.0500	392,100.0000	
DRL	2/23/2005 9:10:37 AM	2/23/2005 11:21:33 AM	Buy	10,000	39.2888	SC	JO	DONE	A		ARCA	0.0100	392,988.0000	
DRL	3/7/2005 8:06:12 AM	3/7/2005 12:14:37 PM	Sell	15,000	40.7331	SC	JO	DONE	A		ARCA	0.0100	610,846.5000	
DRL	3/8/2005 12:34:26 PM	3/8/2005 12:14:37 PM	Buy	10,000	38.7976	SC	JO	DONE	A		VOLM	0.0100	388,076.0000	
DRL	3/8/2005 12:34:26 PM	3/8/2005 12:14:37 PM	Buy	30,000	38.7882	SC	JO	DONE	A		MACC	0.0500	1,165,146.0000	
DRL	3/9/2005 7:15:23 AM	3/9/2005 12:14:37 PM	Buy	20,000	37.8216	CH	JO	DONE	A		SOAR	0.0500	757,432.0000	
DRL	3/16/2005 7:24:38 AM	3/16/2005 12:14:37 PM	Sell	22,500	33.0867	SC	JO	DONE	A		MCBT	0.0500	742,875.7500	
DRL	3/16/2005 7:24:38 AM	3/16/2005 12:14:37 PM	Buy	35,000	26.2353	SC	JO	DONE	A		YAMN	0.0100	918,585.5000	
DRL	3/18/2005 8:06:16 AM	3/18/2005 12:14:37 PM	Sell	42,500	21.1231	SC	JO	DONE	A		WEEC	0.01	897,306.7500	
DRL	3/18/2005 8:06:16 AM	3/18/2005 12:14:37 PM	Sell	21,500	24.0062	SC	JO	DONE	A		FBRC	0.05	5,150,583.0000	
DRL	3/18/2005 8:40:18 AM	3/18/2005 12:14:37 PM	Buy	50,000	20.84	SC	JO	DONE	A		WEEC	0.03	1,043,500.0000	
													9,600,724.5000	-2,199,112.5000

Security	Timestamp	TradeDate	Side	Done	AvgPrc	Mgr	Trdr	Status	Alcd	Nifty	Broker	Comm	Buy	Sells
DRL+TG	3/7/2005 9:44:22 AM	3/7/2005 12:14:37 PM	Short	2700	1	SC	JO	DONE	A		PALI	0.02	264,600.00	
DRL+TG	3/18/2005 7:45:15 AM	3/18/2005 12:14:37 PM	Cover	1350	9.999	SC	JO	DONE	A		PALI	0.02	1,352,025.0000	
DRL+TG	3/29/2005 1:31:04 PM	3/29/2005 12:14:37 PM	Cover	1350	13.65	SC	JO	DONE	A		PALI	0.02	1,845,450.0000	
													3,197,475.00	-2,932,875.00

Security	Timestamp	TradeDate	Side	Done	AvgPrc	Mgr	Trdr	Status	Alcd	Nifty	Broker	Comm	Buy	Sells
DRL+TH	3/7/2005 9:16:29 AM	3/7/2005 12:14:37 PM	Buy	1350	2.8	SC	JO	DONE	A		PALI	0.02	380,700.00	
DRL+TH	3/29/2005 1:32:11 PM	3/29/2005 12:14:37 PM	Sell	1350	18.3	SC	JO	DONE	A		PALI	0.02	2,467,800.00	
													380,700.00	2,087,100.00

Security	Timestamp	TradeDate	Side	Done	AvgPrc	Mgr	Trdr	Status	Alcd	Nifty	Broker	Comm	Buy	Sells
DRL+HJ	3/7/2005 9:47:30 AM	3/7/2005 12:14:37 PM	Short	1350	0.35	SC	JO	DONE	A		PALI	0.02	49,950.00	
DRL+HJ	3/9/2005 1:01:13 PM	3/9/2005 12:14:37 PM	Cover	1350	0.2862	SC	JO	DONE	A		PALI	0.02	41,202.00	
													41,202.00	8,748.00

-3,036,139.5000

Exhibit C

In The Matter Of:

*UNITED STATES OF AMERICA v.
MARIO S. LEVIS A/K/A SAMMY LEVIS*

*VOLUME 18
April 21, 2010*

*TRIAL
SOUTHERN DISTRICT REPORTERS
500 PEARL STREET
NEW YORK., NY 10007
212-805-0300*

Original File 04lwlevf.txt, Pages 2789-2981 (193)

Word Index included with this Min-U-Script®

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[1] (In open court)

[2] **THE CLERK:** Please take the witness stand.

[3] **STUART MCDERMOTT,**

[4] called as a witness by the Government,

[5] having been duly sworn, testified as follows:

[6] **DIRECT EXAMINATION**

[7] **BY MR. BRAUN:**

[8] **Q.** Good afternoon, Mr. McDermott.

[9] **A.** Hello.

[10] **Q.** Where do you live?

[11] **A.** I live in Chicago.

[12] **Q.** What do you do for a living?

[13] **A.** I am an equity analyst for Holland Capital Management.

[14] **Q.** Tell us what Holland Capital Management is and what you do

[15] there.

[16] **A.** It is an investment management company. We manage money

[17] for pensions, endowments, we have a little mutual fund, and I

[18] am an analyst. Basically my job is to try to pick stocks that

[19] are going to increase in value, go up.

[20] **Q.** Are you only interested in stocks that you feel are going

[21] to increase in value?

[22] **A.** Yes, we only pick stocks to go long. We don't short any

[23] stocks.

[24] **Q.** By shorting stocks, you mean investing in them with

[25] expectation they're going to increase in value?

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[1] **A.** That's correct.

[2] **Q.** You testified about this, but can you give us a better

[3] sense for whose money you're investing in Holland? Who are

[4] generally some of the nature of your clients?

[5] **A.** I was saying we have pension funds so we would have -- the

[6] exact clients, for example, are firefighters, teachers, they

[7] have pensions through different states, police, just different

[8] union organizations, those are some examples of some of the

[9] clients we have.

[10] (Continued on next page)

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[1] **BY MR. BRAUN:**

[2] **Q.** In your work as an analyst at Holland, is there a

[3] particular type of company or sectors of the economy that you

[4] focus on?

[5] **A.** Well, I cover, I cover financials and staples, consumer

[6] staples, so companies like, either financial companies or

[7] banks, trust and custody of the companies. Or in staples, I'm

[8] talking about companies like Coca-Cola, Procter & Gamble,

[9] Pepsi, stuff like that.

[10] **Q.** How long have been have you been working at Holland Capital

[11] Management?

[12] **A.** I've been working there since August of 2001.

[13] **Q.** Can you give us a sense of your educational and

[14] professional background, prior to the time when you began

[15] working at Holland, maybe start with college and just bring us

[16] forward, briefly, if you could?

[17] **A.** Okay. I went to college in Chicago at U-Chicago. I

[18] studied philosophy there. After that, I went to law school,

[19] went to Cornell Law School. And then after I graduated from

[20] law school, I became a public defender with the Legal Aid

[21] Society in Brooklyn, New York. Did that for eight years.

[22] After that, moved back to Chicago, and while I'd been working

[23] as a Legal Aid attorney, after some of the years, I started

[24] getting interested in the stock market, reading a lot of books

[25] about it, and so I realized that, it was an industry I thought

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[1] I might be able to take some of my skills as a public defender

[2] and use them. But I realized nobody was going to hire me to

[3] get into this industry with a public defender background, so I,

[4] I went back to business school. I went to the U-Chicago,

[5] graduate school of business, in 1997, and I graduated 1999.

[6] And that's when I started working, shortly after, thereafter,

[7] in the industry.

[8] My first job was at Lincoln Capital Management, where I was

[9] a junior equity analyst, and I worked for another analyst, and

[10] we, you know, I basically did a lot of the same things I do

[11] now. I, I built, I worked on models, on stocks; called the

[12] companies, talked with them, read research reports and wrote,

[13] helped the senior analyst, and I did that for about two years

[14] and I went from there to Holland Capital Management.

[15] **THE COURT:** Tell you what, you've got a very good

[16] voice. For you, don't go quite so near the microphone.

[17] **MR. BRAUN:** We've been trying to convince people to

[18] get closer over the course of the trial. You're the first

[19] person we've had to back up.

[20] **THE WITNESS:** Thank you.

[21] **BY MR. BRAUN:**

[22] **Q.** When you started at Holland, can you just remind me what

[23] year was that?

[24] **A.** 2001.

[25] **Q.** Did you begin work as an equity analyst there and continue

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[11] to have those responsibilities that you described through the
[12] 2005 period?
[13] A. Yes, that's true.
[14] Q. And those are still the responsibilities you have now, if I
[15] understand your testimony?
[16] A. Yes.
[17] Q. While you were at Holland, did a company called Doral
[18] Financial Corporation come to your attention?
[19] A. Yes, it did.
[20] Q. At some point, did you recommend that Holland buy Doral
[21] stock?
[22] A. I did.
[23] Q. Did Holland make such an investment?
[24] A. We did.
[25] Q. Can you tell us how Doral initially came to your attention,
[26] Mr. McDermott, about when that was?
[27] A. Well, I covered stocks in the financial services space at
[28] the time, so I would get a lot of research sent to me from the
[29] sell side. And also I'd read myself, I'd try to read as much
[30] as I can about certain financial companies. I would pay closer
[31] attention to the ones that seemed to be growing pretty well and
[32] doing quite well. So over time, I would notice some, I noticed
[33] Doral, I noticed it was doing quite well, seemed to be doing
[34] quite well. It was on my kind of radar screen, so to speak.
[35] And over the months in time, I started paying closer attention

[11] lot of companies, in this case, if they have filings, you know,
[12] SEC filings they have. They also have presentations you can
[13] take a look at. Then there's also just research you can get
[14] from newspaper articles and so forth, and you can talk to the
[15] company as well.
[16] Q. And talking to the company, is that an important part of
[17] the process as well in making an investment decision?
[18] A. Yes, it is. It's very important.
[19] Q. Why is that so?
[20] A. You have a chance when you talk to the company a lot of
[21] times to get more detail than what's behind the filings or the
[22] presentation. A lot of times the presentations are kind of,
[23] they're kind of short, maybe 25 minutes, to a group of people.
[24] But if you call them, you can really pick their brain on more
[25] detail about issues you're curious about. So it's actually a
[26] very good source to talk to the companies.
[27] Q. As you were looking at Doral Financial more closely, did
[28] you begin to communicate with anyone in management at that
[29] company because of your interest in possibly making an
[30] investment?
[31] A. I did. It was Mario Sammy Levis.
[32] Q. And about what time, if you recall, did you begin
[33] communicating with Sammy Levis?
[34] A. I believe it was in January of 2004.
[35] Q. And at the time, were you carefully considering whether to

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[11] to it. And then I started doing more in-depth investigation of
[12] it, at a certain point, thinking this might be a stock that
[13] would qualify for our portfolios at Holland Capital.
[14] Q. And as you started paying closer attention to Doral, I
[15] think you mentioned sell side research. Can you describe just
[16] generally what that is? It's a term we're familiar with.
[17] A. Sell side research is just basically research from, I guess
[18] you'd call it Wall Street, people who publish research publish
[19] it, they give it out to the whole investment management
[20] community to take a look at, try to either say supporting the
[21] stock, you should buy it, be neutral on it, or sometimes on
[22] occasion saying sell the stock.
[23] So a lot of times people in the industry, in the sell side,
[24] a lot of the analysts there have years and years of experience,
[25] and you can say are experts on it. So I would read their
[26] research and, you know, judge for myself whether it made sense
[27] or whether, you know, I discounted it or whether I didn't.
[28] Q. Can that be a significant source of information for you in
[29] making investment decisions?
[30] A. It definitely can be.
[31] Q. And as you start doing your homework on the company and you
[32] start focusing more on the company, as you were describing with
[33] Doral, are there other published materials, written materials
[34] that you focused on?
[35] A. Yes. I would focus on company's own written materials. A

[11] make an investment decision to buy stock in Doral?
[12] A. I was. I was interested in, I had been doing some due
[13] diligence on it. I was getting more interested in it for a
[14] number of reasons, but I wanted to talk to the company and find
[15] out more details.
[16] Q. Were you able to communicate with Mr. Levis during that
[17] period for those purposes?
[18] A. Yes, I was.
[19] Q. Do you have a binder of documents in front of you, a
[20] notebook there with some materials?
[21] A. Yes.
[22] Q. Can you turn your attention now to a document that's been
[23] marked for identification as Government Exhibit 1003. It's a
[24] few tabs in to the binder there.
[25] Do you recognize this document, Mr. McDermott?
[26] A. Yes, I do.
[27] Q. Can you generally describe what it is?
[28] A. It's a research report I wrote on Doral Financial. I wrote
[29] it for my firm internally, so that we could discuss Doral as a
[30] potential investment for the company.
[31] Q. And can you describe what that internal decision-making
[32] process consists of at Holland?
[33] A. We have a team of analysts. There's about, there's five
[34] analysts and there's another person who is also considered the
[35] portfolio manager, but the analyst, basically when you have an

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[1] A. It was a check. It was an important consideration to see
[2] if management had a history of being accurate in the past as
[3] far as what assumptions they were using. So I wanted to try to
[4] drill a little deeper and find out if I could get some comfort
[5] in that area.
[6] Q. Why are assumptions important particularly with this type
[7] of gain-on-sale accounting?
[8] A. Because in something like this, gain-on-sale accounting, a
[9] company is not exactly getting the cash flows immediately when
[10] they're booking the revenues and the earnings. So if a company
[11] was being aggressive, or dishonest, then unless they're being
[12] accurate in their assumptions, there could be problems down the
[13] road.
[14] Q. Did you receive a response from Mr. Levis to the questions
[15] that you posed in your e-mail on February 3?
[16] A. I did.
[17] Q. Can you turn your attention now to Government Exhibit 1006.
[18] And do you recognize that document?
[19] A. Yes, I do.
[20] Q. What is 1006?
[21] A. It's an e-mail response from Sammy Levis back to me, dated
[22] February 3, 2004.
[23] Q. Do you recall receiving this e-mail?
[24] A. Yes, I do.
[25] MR. BRAUN: Your Honor, we offer 1006.

[11] consistency of earnings that we have had and expect to have."
[12] Q. Focusing on his response to your question on gain on sale
[13] and in particular to your questions about how conservative
[14] Doral had been in its assumptions, Mr. Levis tells you that
[15] these IOs that it's generated from its bulk sales of loans, he
[16] says "these are valued by two independent third-party
[17] valuations and our own internal one, and as a matter of policy,
[18] we take the lowest." Was that representation important to you
[19] in your decision-making process?
[20] A. Yeah. It was important to me. Yes.
[21] Q. And why is that? Can you explain that?
[22] A. Because any time you can have somebody who is independent,
[23] who is not beholden to a company you're trying to decide
[24] whether they're being truthful or not, it helps to have an
[25] independent set of eyeballs looking at, looking at them and
giving them, making a judgment. So the fact that he was saying
they were taking some outside valuation companies and having
them value this IO and that they were taking the lowest one
made me feel better about potentially investing in Doral.
Q. He makes another point lower down in the e-mail that you
read regarding Doral's continued success despite different
interest rate cycles. Was that an issue that you were focused
on as well during this point in your decision making?
A. Yes, it was.
Q. And why is that?

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[1] THE COURT: Received.
[2] (Government's Exhibit 1006 received in evidence)
[3] BY MR. BRAUN:
[4] Q. In point 1 there, did Mr. Levis respond to the questions
[5] that you asked about gain on sale and management assumptions?
[6] A. Yes, he did.
[7] Q. Can you read his response on that topic and starting with
[8] the 40 percent he's talking about that is noncash gain on sale?
[9] A. Starting with the 40 percent you're saying?
[10] Q. Yes, starting with "the other 40."
[11] A. "The other 40 percent that is noncash is as the result of
[12] excess servicing IOs on bulk sales of whole loans in the local
[13] market. These are valued by two independent third-party
[14] valuations and our own internal one, and, as a matter of
[15] policy, we take the lowest. On these valuations, the
[16] assumptions have always been very conservative compared to
[17] industry standard. But, again, let me reiterate that the
[18] majority of our gain on sale is cash up front income, which do
[19] also include fees."
[20] Q. Can you read also point 6 in Mr. Levis' response to you on
[21] this date?
[22] A. Sure. "My personal view is that it is very cheap. This a
[23] company that has had record earnings five years in a row
[24] despite interest rate cycles. There are not that many
[25] companies in the banking or mortgage sector with the

[1] A. Because in financial services, right around the time of
[2] 2004, there were a lot of concerns about the potential for
[3] interest rates to increase going forward.
[4] Q. Why is that? Do you recall what interest rates were
[5] generally at that time?
[6] A. They were real low because I think the Federal Fund's
[7] interest rate was down at like 1 percent. But basically people
[8] were thinking that when they did increase or when they did
[9] change from where they were, they were going to start going up
[10] rather than going down or staying stable. People thought that
[11] the economy was improving, rates were going to start going up.
[12] And so, typically, a lot of financial companies, when rates
[13] increase, a lot of financial companies don't do so well. So in
[14] this case, I was looking for companies where I thought they
[15] could still do well in the face of potential rate increases
[16] coming down the pike.
[17] Q. After this e-mail exchange with Mr. Levis, did you continue
[18] to seek information regarding Doral?
[19] A. Yes, I did.
[20] Q. Did you continue to communicate with him for that purpose?
[21] A. I did.
[22] Q. At this point in time, had Holland actually made an
[23] investment in Doral, or were you still involved in considering
[24] that possibility?
[25] A. Back in February --

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[1] Q. Let me stop you there. Can you jump down now to the next
[2] paragraph. There's another reference to Sammy Levis there.
[3] Can you read the rest of that paragraph, beginning with "while
[4] the treasurer, Sammy Levis."
[5] A. "While the treasurer, Sammy Levis initially answered a
[6] number of questions in writing, I and the group had some
[7] follow-ups. It turned out that the delay was caused by an
[8] e-mail glitch (our Outlook transformed the e-mail address to
[9] proper name form, but Doral's e-mail addresses are case
[10] sensitive, so he did not receive any of them.) I have now set
[11] up a conference call with him on Friday, March 5. He also gave
[12] an extremely positive presentation at the Wachovia Conference
[13] yesterday, so I feel confident at this time that we should move
[14] on the stock and initiate a position."
[15] Q. In the rest of your e-mail, did you pass along some of the
[16] answers to your questions that Mr. Levis had provided to you in
[17] the previous e-mails we have seen during your testimony?
[18] A. Yes, I did.
[19] Q. Did that include the information Mr. Levis had provided
[20] about the two independent third-party valuations and Doral's
[21] policy to take the lowest of its three valuations for the
[22] interest-only strips that it was generating?
[23] A. Yes, that's included in this e-mail.
[24] Q. Was the confidence that Mr. Levis expressed to you in this
[25] time period and information he provided you important in your

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[1] THE COURT: You may step down.
[2] (Witness excused)
[3] THE COURT: Again, our schedule, who are the witnesses
[4] after this one?
[5] MR. BRAUN: Your Honor, after this witness, the
[6] government has several witnesses, all of whom are very short.
[7] We have one witness through whom we are putting in just some
[8] summary charts. I'm going to wait for Mr. McDermott to leave
[9] the courtroom before I tell you what's going to happen next.
[10] And then we have two bankers, a banker from Banco
[11] Popular, whose direct examination is less than an hour, and a
[12] banker from Banco Santander.
[13] THE COURT: When does the government plan to rest?
[14] MR. BRAUN: Tomorrow, by lunch.
[15] THE COURT: When?
[16] MR. BRAUN: By lunchtime tomorrow.
[17] THE COURT: Okay. We're doing pretty well. I think
[18] that the comments I'm making now are probably useless, but I'm
[19] going to make them. If you bring out testimony about
[20] Mr. Levis' general optimism, and so forth, there's no claim
[21] that he was dishonest in his general optimism. There's no
[22] claim that on. There are only two claims in the case. One is
[23] about the independent valuations and one is about the caps. The
[24] problem is if you bring out all these other things, and I hope
[25] it isn't true, but it could lead to a very lengthy

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[1] decision-making process, Mr. McDermott?
[2] A. Yes, it was.
[3] Q. Based on that information and the recommendations that you
[4] were making to your group at Holland, at around this time
[5] period, did Holland make an investment in Doral and buy Doral
[6] stock?
[7] A. Yes, we did.
[8] MR. BRAUN: Your Honor, it's one. This would be a
[9] good breaking point for the government.
[10] THE COURT: Okay. If the jury would step out, I'll
[11] talk to the lawyers about our schedule. 2:15, ladies and
[12] gentlemen.
[13] (Jury excused)

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[1] cross-examination about these other things. And it's a little
[2] hard to say, I hope the defense can focus and all, but I think
[3] it would be well for the government to really stick to the
[4] point and bring out the points because those are the only
[5] issues. There's no issue about all of these other things he
[6] said. None at all. And with all these witnesses coming on,
[7] you've got to use the time to stick closely to the points at
[8] issue. So please do that.
[9] We'll see you at 2:15.
[10] (Luncheon recess)

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[1] **MR. BRAUN:** The government offers 1014.
[2] **THE COURT:** Received.
[3] (Government Exhibit 1014 received in evidence)
[4] **BY MR. BRAUN:**
[5] **Q.** Without pausing on the substance of this, Mr. McDermott, I
[6] want to run through a few of the documents reflecting your
[7] communications with Mr. Levis. What about Exhibit 1015, do you
[8] recognize that?
[9] **A.** Yes, I do.
[10] **Q.** What is 1015?
[11] **A.** It is some notes, handwritten notes of mine based on a
[12] conversation to myself and Sammy Levis, dated April 16th, 2004.
[13] **MR. BRAUN:** We offer 1015 into evidence, your Honor.
[14] **THE COURT:** Received.
[15] (Government Exhibit 1015 received in evidence)
[16] **BY MR. BRAUN:**
[17] **Q.** Can you now turn to 1016, Mr. McDermott. Do you recognize
[18] 1016?
[19] **A.** Yes, I do.
[20] **Q.** What is 1016?
[21] **A.** Within our firm we typically would write what we call
[22] weekly reports where we would write, in my situation I would
[23] write about all the stocks that I cover, any news that is on
[24] them, any news that I have read about or anything I found
[25] important to share with the group.

[1] with Doral is left in here.
[2] **Q.** Okay. We'll have the computer working in a minute. It is
[3] still warming up.
[4] **Mr. McDermott,** can you turn to the discussion of Doral
[5] that appears in this document. It is starting on the page that
[6] begins 4-16, meaning April 16th.
[7] **A.** Yes.
[8] **Q.** Do you describe a conversation that you had with Sammy
[9] Levis during this time period?
[10] **A.** Yes, I do.
[11] **Q.** Is there any discussion of Mr. Levis' comments regarding
[12] Doral's exposure to interest rate risk with respect to its
[13] sales of mortgage loans?
[14] **A.** Yes, there is.
[15] **Q.** Can you just read just that part of your report here from
[16] April.
[17] **A.** Okay. Well, it says had a conference call with treasurer
[18] Sammy Levis about earnings release. He sounds extremely
[19] confident about Doral's prospects, highlights. Outlook is
[20] better than previously thought even with higher interest rates.
[21] 2 billion of liquidity on balance sheet, able to reinvest at
[22] higher rates when rates go up. New housing construction is
[23] stronger than they expected so Doral owns 50 to 60 percent of
[24] this market, and Doral has sold forward its entire year's worth
[25] of production. So they have already locked in their gain on

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[1] It also has some information as far as actions I think
[2] we should take as far as either buying or selling the stocks or
[3] adding to stocks, also other stocks we're thinking about
[4] potentially looking at stocks which we don't own, and sometimes
[5] I put news in about stocks we don't own and I want to write
[6] about it because it is important to the industry or stocks I am
[7] thinking about.
[8] **Q.** What is the date on this weekly news document that you just
[9] described?
[10] **A.** April 19th, 2004.
[11] **MR. BRAUN:** We offer 1016, your Honor.
[12] **THE COURT:** Received.
[13] (Government Exhibit 1016 received in evidence)
[14] **BY MR. BRAUN:**
[15] **Q.** Can that be put up?
[16] **Mr. McDermott,** this document reflects that a number of
[17] sections have been covered up or redacted. The word "redacted"
[18] appears a number of times on this document?
[19] **A.** Yes.
[20] **Q.** Can you reflect what is redacted and what remains from the
[21] weekly news document that is now in evidence as 1016.
[22] **A.** On this type of document, what is taken out is anything
[23] that had nothing to do with Doral. If I was writing about
[24] another stock -- Pepsi, for example, it has been taken out,
[25] there is no information about Pepsi. Anything that had to do

[1] sale revenues. No interest rate risk on these deals.
[2] Then there is another entry I made also which is rates
[3] increasing will benefit the NIM.
[4] **Q.** The net interest market?
[5] **A.** Yes, that is what that stands for, yes.
[6] **Q.** That would be the margin of what Doral's earning in
[7] interest as compared to what it is paying out in interest,
[8] correct?
[9] **A.** That's correct, yes.
[10] **Q.** Just a few more documents reflecting your communications
[11] with Mr. Levis in the '04 period that I'd like you to identify
[12] so that we can have them in evidence.
[13] I don't plan on focusing on the details in them, but
[14] just for summary purposes, Mr. McDermott, did you continue to
[15] have the same sorts of communications with Mr. Levis through
[16] the 2004 period?
[17] **A.** That's correct, yes.
[18] **Q.** Does he continue to make the same assurances to you
[19] regarding the lack of interest rate risk that Doral has in its
[20] gain on sale mortgage loan sale activities?
[21] **A.** Yes, he does.
[22] **Q.** Can you identify for us Government Exhibit 1017.
[23] **A.** 1017 is --
[24] **THE COURT:** I tell you what. I think if they're of
[25] the same nature, you can simply offer them and I'll receive

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[1] them.

[2] **MR. BRAUN:** Okay. There is a handful, your Honor, and

[3] I'll read them off. There is six or seven documents. It is

[4] Government Exhibit 1017, notes from May 10th --

[5] **THE COURT:** All right, look, just read the numbers.

[6] **MR. BRAUN:** 1017, 1018, 1019, 1020, 1022.

[7] **THE COURT:** Those are received.

[8] (Government Exhibits 1017, 1018, 1019, 1020, 1022

[9] received in evidence)

[10] **MR. BRAUN:** Thank you.

[11] **THE COURT:** Does that finish 2004?

[12] **MR. BRAUN:** There is one in 2004 that I was going to

[13] pause at briefly before moving into 2005.

[14] **THE COURT:** All right. What is that?

[15] **MR. BRAUN:** That is 1023.

[16] **BY MR. BRAUN:**

[17] **Q.** Mr. McDermott, as of 2004, did interest rates continue to

[18] rise?

[19] **A.** Yes, they did.

[20] **Q.** In light of that, did you continue to consider whether the

[21] investment that Holland made in Doral was a good one, one you

[22] wanted to maintain?

[23] **A.** We still owned it and I continued analyzing, to be

[24] concerned whether rates are going to impact and whether they

[25] can grow through it.

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[1] **Q.** Can you turn your attention to Government Exhibit 1023.

[2] **A.** Yes.

[3] **Q.** Is this one of the weekly reports that you've described

[4] earlier in your testimony?

[5] **A.** Yes, it is.

[6] **Q.** This one is dated November 29th, 2004?

[7] **A.** That's correct.

[8] **MR. BRAUN:** We offer 1023, your Honor.

[9] **THE COURT:** Received.

[10] (Government Exhibit 1023 received in evidence)

[11] **BY MR. BRAUN:**

[12] **Q.** Can you just read the last paragraph, Mr. McDermott, on the

[13] page that has been marked with a number ends 26.

[14] **A.** The last paragraph, "Outlook: Q3 was outstanding. The

[15] fundamentals remain superb. The stock trades at 10.4 forward

[16] so it is trading at less than one quarter of its near term

[17] growth late. I like the name a lot and expect very strong

[18] results to continue. Talk with the treasurer gives me

[19] confidence to continue holding at these levels."

[20] **Q.** Did Holland continue holding at those levels going into

[21] 2005?

[22] **A.** Yes, we did.

[23] **Q.** Can you turn your attention now to Government Exhibit 194,

[24] a few tabs forward in your book.

[25] **A.** Yes.

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[1] **Q.** Do you recognize 194? It is already in evidence.

[2] **A.** Yes, I do.

[3] **Q.** What is Government Exhibit 194?

[4] **A.** It is a press release from Doral on January 18th. It is

[5] their quarterly earnings for fourth quarter and the full

[6] earnings for 2004.

[7] **Q.** Did this press release come to your attention around this

[8] period of time when it was issued?

[9] **A.** Yes, it did.

[10] **Q.** Can you read the first couple of sentences in the 5th

[11] paragraph down or so. It begins investment activities.

[12] **A.** "Investment activities for the fourth quarter of 2004

[13] resulted in a loss of 95.4 million compared to a loss of 8

[14] million for the fourth quarter of 2003. The loss on investment

[15] activities during the fourth quarter of 2004 was principally

[16] due to an impairment on the value of the company's

[17] interest-only strips IOs of 97.5 million as a result of

[18] increases in the 3 month London interbank offered rate, LIBOR,

[19] which reduced the anticipated spread of the company's variable

[20] rate IOs.

[21] **Q.** Let me stop you there.

[22] Do you recall seeing that bit of information in the

[23] press release that was issued in January of '05?

[24] **A.** Yes, I do.

[25] **Q.** What was your reaction to it, if any?

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[1] **A.** I was disappointed at first and I was concerned.

[2] **Q.** What was your concern?

[3] **A.** Well, the stock sold off pretty substantially in the

[4] marketplace and the market was clearly worried about the fact

[5] that there was an impairment being taken on this IO, so that's

[6] kind of where the concern was coming from.

[7] **Q.** Do you recall what interest rates were doing during this

[8] period of time?

[9] **A.** I believe they were still kind of consistently moving up in

[10] a measured manner.

[11] **Q.** Do you recall what expectations were regarding where

[12] interest rates were continuing to go during that period of

[13] time?

[14] **A.** Yes, expectations were for them to continue to go up.

[15] **Q.** In light of that, in light of Doral's announcement it had

[16] taken this write-down to its interest-only strips because of

[17] rising interest rates, did you have concerns about Doral taking

[18] additional impairments in the future going forward from this

[19] time period?

[20] **A.** Yes, I did.

[21] **Q.** After you saw this press release, did you want to obtain

[22] additional information from Doral regarding what this

[23] impairment was all about?

[24] **A.** Yes, I did.

[25] **Q.** What did you do as a result of that?

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[1] A. I called Mr. Sammy Levis to get more detail on what
[2] happened and what was behind this loss, this interest-only
[3] strip.
[4] Q. Can I turn your attention to two documents now in your
[5] binder, and can you identify what Government Exhibit 1025 is
[6] and as well as tell us what 1026 is.
[7] A. Okay. 1025 is handwritten notes of myself of mine based on
[8] a call I had with Sammy Levis on January 19th, 2005. I guess
[9] it was the day after they reported earnings.
[10] Q. What is 1026?
[11] A. 1026 is my weekly news, like a printed -- my printed, you
[12] know, my write-up of conversations I had or news I had, weekly
[13] write-up of news on stocks I cover.
[14] As for this case, it pertains to writing about for
[15] Doral that week.
[16] Q. Does your weekly news entry on Doral reflect at least in
[17] part the substance of your conversation with Mr. Levis that
[18] took place on about January 19th of 2005?
[19] A. Yes, it does.
[20] Q. The date on your weekly news report appears to be January
[21] 17th, '05.
[22] A. That's correct.
[23] Q. Can you explain to us how a report dated January 17th,
[24] 2005, can describe a conversation that took place on January
[25] 19th, 2005 if your notes are correct?

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[1] A. Yes. We write our weekly news reports every week.
[2] Traditionally, we put them out on Monday. We don't always put
[3] them out on Monday. Sometimes they get put out later in the
[4] week. As a practice, I would have my date always be the Monday
[5] of the week. In that particular case, January 17th was Monday,
[6] I believe, and then I probably didn't -- I was on vacation
[7] actually at first. I was in Arizona, and so I didn't do my
[8] weekly on Monday.
[9] When I came back and I started -- I had the call with
[10] Sammy and then I did my weekly a day later, I just keep the
[11] date the same. So I kept it as of that Monday date.
[12] Q. There are entries in the report that might reflect
[13] activities that happened later that week?
[14] A. That's correct.
[15] MR. BRAUN: The government offers 1025, which are the
[16] notes; and 1026, which is the weekly news.
[17] THE COURT: Received.
[18] (Government Exhibits 1025 and 1026 received in
[19] evidence)
[20] BY MR. BRAUN:
[21] Q. I want to start with 1026, Mr. McDermott, your weekly news
[22] entry on Doral Financial.
[23] A. Okay.
[24] Q. Can you read the first entry there under the Doral
[25] Financial heading, beginning with that top paragraph.

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[1] A. The first paragraph, January 18th, reported Q4. Numbers
[2] look great at first glance, but the Achilles heel of Doral came
[3] back to bite it. Does not do conference calls. That may
[4] change now. And it had a conferencing line item regarding a
[5] write-down of its interest-only strip by 97 million. A few
[6] analysts said this was due to ineffective hedges. After
[7] talking to the treasurer, I feel very good about the results
[8] and his explanation. This is a great example of the
[9] inefficiency of markets with the stock down 11 percent, 11
[10] percent today on this misunderstanding of this news details.
[11] Q. Under the details can you now skip down to the paragraph
[12] that begins 97 M IO write-down and read that paragraph for us.
[13] A. "97 million IO write-down of the servicing strip."
[14] Q. Let me stop you just for a moment. In the line above that,
[15] does your report indicate in what follows here, what you're
[16] reading now, this is based on your conversation with the
[17] treasurer of Doral, Sammy Levis?
[18] A. Yes, I report I spoke to the treasurer and here is what he
[19] said.
[20] Q. Please continue.
[21] A. 97 million IO write-down of the servicing strip offset by
[22] unusual tax gain of about 80 million due to acceleration of
[23] deferred tax assets under a capital gains tax law change.
[24] Basically Doral saw an opportunity to write the IO well below a
[25] level that it had previously, using a very conservative

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[1] assumption, and offset this with a gain as two one timers.
[2] The upshot would to put the IO in a very conservative
[3] valuation, setting up one more tailwind for Doral in 2005.
[4] Unfortunately, the market did not understand. At worst, Doral
[5] is guilty of some sort of pushing out earnings by depressing Q4
[6] given its robustness.
[7] Q. Can you explain what you mean by talking about a tailwind
[8] in '05 and pushing out earnings?
[9] A. What I am saying there, sometimes companies, they kind of
[10] play games, they manage their earnings. So my understanding
[11] was that, understanding was Doral was using a more conservative
[12] valuation of the IO and taking a hit to its earnings in 2004,
[13] but that would mean that going forward in 2005 was setting it
[14] up to having already taken this charge, it would help protect
[15] earnings in 2005, so it actually was pushing out earnings for
[16] the company to the following year.
[17] Q. Can you continue reading in your report where you left off.
[18] A. Doral valued the IO with the assumption that LIBOR
[19] increases by 150 basis points in the next 12 months. They had
[20] been using 100 basis points. Had they used 100 basis points
[21] again, it would have seen a loss of 25 to 30 million, not the
[22] 97 million. Accountants gave it their blessing because there
[23] are a few out there who believe that LIBOR will increase 150
[24] basis points over the next twelve months.
[25] Q. Then it says hedges had nothing to do with this, the